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1. DEFINITION
Responsibilities of town clerks and city recorders as defined by Utah law.

2. PURPOSE
It is the purpose of this Chapter to outline those responsibilities of clerks and recorders that are defined by Utah law and provide reference to the Utah Code. In some cases, the term "clerk" or "recorder" is only inferred by responsibility. This chapter contains an outline of all known Utah Code references to the recorder/clerk by topic. This is an outline only and referral to the Utah Code is necessary to understand the full impact of the section. Remember, the outline is a summary only and subject to interpretation. The only true authority is the code itself.

3. OTHER DEFINITIONS

A. "Clerk/Recorder" – under Utah "custom" the title of "clerk" is used in towns and "recorder" in cities, i.e., "town clerk" or "city recorder." However, in some instances within Utah Code, the term "clerk" is used to mean both town clerk and city recorder in addition, the terms are used to include city recorder or town clerk such as: election officer, election official, local clerk, and filing officer.

"Recorder," unless clearly inapplicable, shall include and apply to town clerks. (UCA 10-1-104(9))

B. "Governing Body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:

1) In cities of the first and second class, the governing body is the city commission;
2) In cities of the third, fourth, or fifth class, the governing body is the city council;
3) In towns the governing body is the town council. (UCA 10-1-104(3))

C. "Municipal" means of or relating to a municipality. (UCA 10-1-104(4))

D. "Municipality" means a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class, or a town, as classified in UCA 10-2-301. (UCA 10-1-104(5))

E. "Meeting" means convening of a public body with quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or action upon a matter over which the public body has jurisdiction or advisory power. (UCA 52-4-103(5)(a))

F. "Public Body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that is created by Utah Constitution, statute rule, ordinance, or resolution which consists of two or more persons that expends, disburses, or is supported in whole or in part by tax revenue and which is vested with the authority to make decisions regarding the public's business. (UCA 52-4-103(8)(a))

G. "Appointed Officer" means "any person appointed to any statutory office or position or any other person appointed to any position of employment with a city. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such
Persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality. (UCA 10-3-1303(1))

H. Classifications of municipalities according to population:

- **Town Under** 1,000 in population
- **Fifth Class City** 1,000 to 9,999 population
- **Fourth Class City** 10,000 to 29,999 population
- **Third Class City** 30,000 to 64,999 population
- **Second Class City** 65,000 to 199,999 population
- **First Class City** 100,000 or more population (UCA 10-2-301)

I. "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by law. (UCA 52-4-103(10)(a))

J. The number of council members necessary to constitute a quorum is:

1) In a municipality with a seven-member council, four;
2) In a municipality with a five-member council, three; and
3) In a municipality operating under a six-member council form of government, three, excluding the mayor. (UCA 10-3-504)

K. "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available. (UCA 10-6-106(21))

4. MUNICIPAL CEMETERIES

The owner of a municipal cemetery site unused for burial purposes for more than 60 years must file with city recorder or town clerk notice of any claim to the lot if required by ordinance or resolution. (UCA 8-5-6)

5. PUBLIC WELFARE

Housing Authority

A. City recorder or town clerk certifies the resolution that created a housing authority. Resolution duly certified by clerk shall be admissible as evidence. (UCA 85A-8-402)

B. Record of proceeding, together with charges and findings in the removal of any commissioner, filed in the clerk's office. (UCA 35A-8-406)

C. Housing authority files report of activities with recommendations for additional legislation at least once a year with city recorder or town clerk. (UCA 35A-8-429)
6. CITIES AND TOWNS
   A. Incorporation UCA 10-2a-2 and 10-2a-3
   B. Annexations UCA 10-2-401 through 10-2-418
   C. Boundary Adjustments UCA 10-2-419 and 10-2-425
   D. Municipal Disconnection UCA 10-2-501 through 10-2-510

7. MUNICIPAL GOVERNMENT
   A. Regular and special council meetings UCA 10-3-502 through 10-3-508
   B. Public Meetings UCA 10-3-601
   C. Municipal Ordinances, Resolutions UCA 10-3-701 through 10-3-719
   D. Municipal Administration UCA 10-3-801, 10-3-803, 10-3-805
   E. Salaries in Municipalities UCA 10-3-818
   F. Official Neglect and Misconduct UCA 10-3-826
   G. Oaths UCA 10-3-827 and 10-3-828
   H. Appointed Officials UCA 10-3-902 through 10-3-928
   I. Personnel Rules and Benefits UCA 10-3-902 through 10-3-928
   J. Municipal Ethics Act UCA 10-3-1301 through 10-3-1312
   K. Forms of Government UCA 10-3b-103 through 10-3b-507

8. UNIFORM FISCAL PROCEDURES ACT FOR UTAH TOWNS – UCA 10-5-101 through 10-6-159
   A. Town clerk certifies ordinances or resolutions setting levy to the county clerk. (UCA 10-5-112(3))
   B. Town clerk attends council meetings and keeps records of proceedings. Certified copies of records are admissible in court as originals. (UCA 10-5-121)
   C. Town clerk countersigns all contracts and maintains indexed record of all contracts. (UCA 10-5-122)
   D. Town clerk maintains general books and records for each fund, including list of outstanding bonds, their purpose, term dates, and place payable. Town clerk pre-audits claims against town, prepares checks in payment of claims and certifies on check that claim is pre-audited and approved by council to be within the lawful debt limit and does not over expend department budget. (UCA 10-5-123)
   E. Town clerk may draw and sign warrant on treasury for payment of claim if no funds are on deposit in appropriate account. (UCA 10-5-124)
   F. Town clerk prepares all checks. (UCA 10-5-127)
G. Town clerk presents annual financial report to council within 180 days after year end. (UCA 10-5-129)

9. UNIFORM FISCAL PROCEDURES ACT FOR UTAH CITIES – UCA 10-6-101 through 10-6-158

A. Tentative budgets together with supporting schedules and data shall be available for inspection in city auditor or city recorder's office for at least 10 days prior to adoption of final budget. (UCA 10-6-112)

B. A certified copy of adopted budget available to public in city auditor or city recorder's office and shall be available to the public during regular business hours. (UCA 10-6-119)

C. City recorder shall certify ordinance or resolution setting the levy to the county auditor before June 15 each year. (UCA 10-6-134)

D. Copy of budget filed in city recorder's office. (UCA 10-6-135(6))

E. City recorder or deputy recorder shall attend all meetings and keep record of proceedings. Record of proceedings kept in city recorder's office under corporate seal. Copies of papers certified by city recorder are admissible in court as originals. (UCA 10-6-137)

F. City recorder countersigns all contracts and keeps indexed record of such. (UCA 10-6-138)

G. City recorders in third, fourth and fifth class cities maintain books and records, including list of bonds, for each city fund, keep accounts with all receiving and dispersing officers of city, pre-audit all claims against city, and certify on check voucher or check copy that claim is pre-audited, approved, within lawful debt limit and does not over-expend budget. (UCA 10-6-139)

H. If no funds in appropriate bank account, city recorder draws and signs warrant upon treasurer for payment. (UCS 10-6-140)

I. Duplicate receipts of payment or summary report filed in city recorder's office. (UCA 10-6-142)

J. City auditor or recorder prepares checks. City recorder may be designated to countersign checks. (UCA 10-6-143)

K. City recorders in third, fourth or fifth class cities to prepare and present monthly and quarterly financial reports to governing body. (UCA 10-6-148)

L. City recorder, or other designated person, shall present annual financial report to governing body within 180 days after close of fiscal year; copies of report filed with state auditor and shall be filed as public document in office of city recorder. (UCA 10-6-150)

M. Within 10 days after receipt from independent auditor, city auditor or recorder shall prepare and publish at least twice in a newspaper of general circulation that city audit has been completed and is available for inspection. (UCA 10-6-152)

N. Director of finance may perform financial responsibilities of city recorder in third, fourth and fifth class cities or cities under an optional form of government. (UCA 10-6-157)

10. LOCAL GOVERNMENT BONDING ACT – UCA 11-14-101 through 11-14-501

Notice of (bond) election shall be published once a week during three consecutive weeks in a newspaper occurring not less than 21 days nor more than 35 days before the election. If no newspaper is published in the
municipality, the notices shall be published in a newspaper having general circulation within municipality. When the governing body imposes a posting requirement, the governing body shall ensure that notice of the bond election is posted in at least 5 public places in the local political subdivision at least 21 days before the election. (UCA 11-14-202)

11. SPECIAL DISTRICTS

A. Dependent Districts – Municipal Building Authority Act. (UCA Title 17A Repealed)

B. Limited Purpose Entities – Local Districts (such as cemetery maintenance, drainage, fire protection, irrigation, metropolitan water, mosquito abatement, public transit, specialize.) (UCA Title 17B)

C. Limited Purpose Entities – Community Development and Renewal Agencies. (UCA Title 17C)

D. Limited purpose Entities – Other Entities (such as special service, local building authority, and conservation districts.) (UCA Title 17D)

12. ELECTIONS - For greater detail, see Chapter 6, Elections of this Handbook.

13. HEALTH CODE

City recorder or town clerk may maintain internment records. (UCA 26-2-18)

14. LIENS

Recorder records claim of lien in an index. (State Code does not specify "county" recorder, but mechanics liens are handled on the county level.) (UCA 38-1b-1)

15. PUBLIC OFFICERS

A. Official oaths and bonds of city officers filed with city recorder, except those of city recorder which is filed with treasurer. (UCA 52-1-4)

B. Official oaths and bonds of town officers filed with town clerk, except those of town clerk which is filed with treasurer. (UCA 52-1-5)

C. Failure to Qualify for Elected or Appointed Office – Office Declared Vacant. (UCA 52-2-1)

D. Open and Public Meetings Act. (UCA 52-4-101 through 52-4-305)

E. Public Body: Only public bodies that are created by the Utah Constitution, statute, rule, ordinance, or resolution; consists of two or more persons; expends, disburses, or is supported in whole or in part by tax revenue; and is vested with the authority to make decisions regarding the public's business. (UCA 52-4-103(8)(a))

F. Closed Meetings. (UCA 52-4-204, 52-4-205 and 52-4-206)

16. PUBLIC UTILITIES

Bonds countersigned by city recorder or town clerk. (UCA 54-8-22)
17. STATE AFFAIRS

A. GRAMA records officer is appointed by chief administrative officer. (UCA 63G-2-103(25))

B. Order to declare, continue, or terminate "local emergency" filed with city recorder or town clerk.

C. Orders, rules, and regulations filed in city recorder or town clerk's office.

D. Claims for injury shall be directed and delivered to the city or town recorder. (UCA 63G-7-401(3)(b)(ii)(A))

18. WATER AND IRRIGATION

Publication of notice of intention to enter privatization project filed with city recorder or town clerk. (UCA 73-10d-4(1))

19. JUDICIAL CODE

Treasurer reports to city recorder showing sums collected and deposited from municipal courts. City recorder shall then apportion and remit the collected proceeds. (UCA Title 78B)

CHAPTER 2 – NOTICING

1. DEFINITION

Noticing requirements of cities and towns as defined by Utah law.

2. PURPOSE

The purpose of "noticing" is to keep the public informed. The noticing requirements of cities and towns as defined by Utah law are presented in this chapter in chart form for the purpose of simplifying this somewhat detailed and complex process.

3. GENERAL DEFINITIONS

A. City Recorder

"City Recorder," unless clearly inapplicable, shall include and apply to town clerks. (UCA 10-1-104(9))

B. Newspaper of General Circulation

For the purposes of publishing any notice required by Utah law, a newspaper having general circulation means a newspaper that:

1) has a bona fide subscription list of not less than 200 subscribers in this state;

2) has been published for not less than 18 months or longer; and

3) has been eligible for mailing under a United States Postal Service periodicals permit for 12 months or publishes at least 12 issues each year, and is composed of at least 25% content that the newspaper receives no compensation to publish and is of local or general interest. (UCA 45-1-201)

C. Public Legal Notice Website (referred to in this document as "in accordance with UCA 45-1-101.")
The public legal notice website was established for the purpose of publishing a legal notice online. The website shall be available for viewing and searching by the general public, free of charge and is required to accept legal notice posting from any newspaper in the state. When a legal notice is required to be published in a newspaper, the newspaper shall publish the legal notice on the public legal notice website at no additional cost. If the legal notice is not required to be published in a newspaper, a newspaper, may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website. (UCA 45-1-101)

D. Utah Public Notice Website (UCA 63F-1-701)

Administered by the Division of Archives and Records Service, this website consists of an Internet website provided to assist the public to find posted public notices of a public body of the state and its political subdivisions as required by Title 52, Chapter 4, Open and Public Meeting ACT, and under other state statutes or state agency rules.

4. NOTICING GUIDELINES

This list is a reference guide only. Verify all notice requirements with Utah Code.

<table>
<thead>
<tr>
<th>EVENT</th>
<th>NOTICE GIVEN</th>
<th>STATE CODE SECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of Real Property</td>
<td>At least 14 days prior to first public hearing</td>
<td>UCA 10-8-2</td>
</tr>
<tr>
<td>Agenda (See Meeting Agenda)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annexation Policy Plan (Must be adopted before annexing any properties)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notice of meeting on proposed Annexation Policy Plan</td>
<td>At least 14 days prior to the public hearing</td>
<td>UCA 10-2-401.5</td>
</tr>
<tr>
<td>Notice of copy of Plan</td>
<td>Within 30 days</td>
<td>UCA 10-2-401.5(5)</td>
</tr>
</tbody>
</table>

ANNEXATION POSTING REQUIREMENTS ARE THE SAME FOR ALL COUNTIES

**The processes are different for cities within First Class Counties**

ANNEXATION

Notice of denial of Petition for Annexation | Within 5 days of denial | UCA 10-2-405(1)(b) |
Notice of acceptance of Petition of Annexation | Within 30 days of acceptance | UCA 10-2-405(2)(c)(i) |
<table>
<thead>
<tr>
<th>Event Description</th>
<th>Timeframe</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice that Petition cannot be certified and is therefore rejected</td>
<td>Within 30 days of rejection</td>
<td>UCA 10-2-405(2)(c)(ii)</td>
</tr>
<tr>
<td>Notice that Petition for Annexation if certified</td>
<td>No later than 10 days after receipt of Notice of Certification</td>
<td>UCA 10-2-406(1)(a)</td>
</tr>
<tr>
<td></td>
<td>Within 20 days of receipt of Notice of Certification</td>
<td>UCA 10-2-406(1)(b)</td>
</tr>
<tr>
<td>Notice of denial as a result of receipt of protest</td>
<td>Within 5 days after denial</td>
<td>UCA 10-2-407(3)(a)(ii)</td>
</tr>
<tr>
<td>Notice to consider granting petition for annexation – No timely protest filed</td>
<td>At least 7 days before the public hearing</td>
<td>UCA 10-2-407(3)(b)(ii)(B)(I) &amp; (II)</td>
</tr>
<tr>
<td>Notice of annexation approved by ordinance</td>
<td>Within 10 days</td>
<td>UCA 10-2-407(3)(b)(iii)</td>
</tr>
<tr>
<td></td>
<td>Within 30 days</td>
<td>UCA 10-2-425(1)(a)</td>
</tr>
<tr>
<td>Island or Peninsula – Notice of adoption of resolution of intent to annex</td>
<td>Within 14 days of adoption of resolution of intent to annex</td>
<td>UCA 10-2-418(5)</td>
</tr>
<tr>
<td>Boundary Adjustment – Notice of adoption of resolution of intent of boundary adjustment</td>
<td>As soon as practical</td>
<td>UCA 10-2-419</td>
</tr>
</tbody>
</table>
| **ASSESSMENT AREA**  
**FORMERLY KNOWN AS SPECIAL IMPROVEMENT DISTRICT (SID)** | **Notice of proposed creation of an assessment area designation and before adoption of a designation resolution or designation ordinance or when adding property to an assessment area or amendments to the resolution or ordinance** | **If published, at least 5 but not more than 20 days before the deadline for filing protests** | **UCA 11-42-202**  
**If posted, at least 20 but not more than 35 days before the deadline for filing protests** | **UCA 11-42-402**  
**At least 4 weeks before the deadline for filing protests**  
**Mail, postage prepaid within 10 days after the first publication or posting of the notice to each property owner** |  

| **Notice of bids being sought for the construction of the improvements** | **At least 15 days before the date specified for receipt of bids** | **UCA 11-42-301** |  

| **Notice of assessment and Board of Equalization hearing** | **If published, at least 5 but not more than 20 days before the deadline for filing protests** | **UCA 11-42-402**  
**If posted, at least 20 but not more than 35 days before the deadline for filing protests**  
**35 days immediately before the day on which the first hearing of the board is held** | **UCA 11-42-402(2)(b)** |  

| **Notice of increased assessment (Board of Equalization)** | **At least 15 days prior to date stated in notice for holding new hearing** | **UCA 11-42-403(4)(c)** |  

| **Notice of reduced assessment** | **Not more than 14 days after making the determination to reduce the assessment** | **UCA 11-42-415** |  

| **Notice reducing assessments after the issuance of refunding assessment bonds** | **At least 21 days before the first payment of a reduced assessment becomes due** | **UCA 11-42-608** |
| Notice of Board of Equalization's final report | Within 10 days after submitting its report to the governing body | UCA 11-42-403(5)(b) |
| Notice of assessment resolution or ordinance | After ordinance passed (Ordinance takes effect on the date of publication or posting) | UCA 11-42-404(2)(a) |
| Notice of assessment interest | Within 5 days after the day on which the 25-day prepayment period has passed | UCA 11-42-404(4)(a) |
| Notice of detailed report on economic promotion activities when an assessment has been made for this purpose | Within 1 year after the day on which the City adopted the new assessment resolution or ordinance and each subsequent year thereafter | UCA 11-42-406 |
| Notice of dissolution of the assessment area | Upon release and discharge of an assessment lien | UCA 11-42-506 |
| Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes (optional) | Upon adoption of the resolution or ordinance | UCA 11-42-604 |

**AUDIT**

| Notice audit is completed and available for inspection | Within 10 days following receipt of audit report from independent auditor | UCA 10-6-152 |

**BIDS**

<p>| Notice of advertisement for bids | A reasonable time before the date set forth in the invitation for opening of bids | UCA 63G-6a-603 |
| Notice of advertisement for bids for building improvements and Public Works projects | At least twice 5 days before bids are to be opened | UCA 11-39-103 |</p>
<table>
<thead>
<tr>
<th>BILLBOARD REMOVAL WITHOUT COMPENSATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of proceedings and opportunity for hearing</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOND ELECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of bond election</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOND (Applies to RDA/CDRA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of intent to issue bonds</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of public hearing</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Notice of Adjustment/Amendment</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<p>| Notice of Enterprise Fund budget public hearing | Tentative budget adopted | UCA 10-6-113 |
| Notice of Utility Enterprise Funds being transferred to other funds when the funds are not being used for reasonable allocations of costs between the utility account and the other fund | At least 7 days before the hearing | UCA 10-6-135.5 |
| Notice of filing certified copy of final budget with State Auditor | Within 30 days after final budget adopted | UCA 10-6-118 |
| Notice of filing certified copy of final Enterprise Fund budget with State Auditor | Within 30 days after adoption | UCA 10-6-135(6)(b) |
| Notice seeking increase to property tax revenue – Truth in Taxation | Once per week for two consecutive weeks; with the last publication at least 7 days before the public hearing | UCA 59-2-919(6) |
| <strong>DISPOSITION OF REAL PROPERTY</strong> | 14 days prior to first public hearing | UCA 10-8-2(3)(d) |
| <strong>DISPOSITION OF UNCLAIMED PROPERTY</strong> | At least 9 days prior to disposition | UCA 77-24a-5 |
| <strong>ELECTIONS</strong> | | |
| Notice of declared candidates for election | Immediately after expiration of the period for filing a declaration of candidacy | UCA 20A-9-203 |
| Notice using automatic tabulating equipment to count ballots | 48 hours before the test | UCA 20A-4-104 |
| Notice of election and sample ballot | At least 7 days before election | UCA 20A-5-405 |
| Notice of change of polling place | After having assembled at or near as practicable to the designated place, and before receiving any vote | UCA 20A-5-605 |
| Notice of time and place of early voting | At least 5 calendar days before early voting begins | UCA 20A-3-604 |
| Notice of City Council meeting to break the tie vote | 24 hours | UCA 20A-1-304 |
| Notice of certificate of election | After completed | UCA 20A-4-304 |
| Notice to fill vacancy in municipal office and temporary absence in elected office | At least 2 weeks before the municipal legislative body meets to fill the vacancy | UCA 20A-1-510(1)(b) |</p>
<table>
<thead>
<tr>
<th>Notice</th>
<th>Required Time</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of cancellation of municipal general election</td>
<td>15 days before the day of the scheduled election</td>
<td>UCA 20A-1-206(2)</td>
</tr>
<tr>
<td><strong>EMINENT DOMAIN</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notice of negotiation and disclosure required if involuntary transaction</td>
<td>No later than 14 days before a final vote is taken</td>
<td>UCA 78B-6-505</td>
</tr>
<tr>
<td>Notice of final vote to approve the filing of an eminent domain action</td>
<td>At least 10 business days before the public hearing</td>
<td>UCA 78B-6-504</td>
</tr>
<tr>
<td><strong>GENERAL PLAN</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notice of intent to prepare or comprehensive amendment</td>
<td>At least 10 days prior to first meeting</td>
<td>UCA 10-9a-203</td>
</tr>
<tr>
<td>Notice to consider or modify</td>
<td>At least 10 days before date of public hearing</td>
<td>UCA 10-9a-404</td>
</tr>
<tr>
<td>Land Use Ordinance or Zoning Map – Adoption or Amendments</td>
<td>At least 10 days before date of public hearing</td>
<td>UCA 10-9a-502, UCA 10-9a-205</td>
</tr>
<tr>
<td><strong>MEETING AGENDA</strong> (City Council and all Boards and Commissions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Notice of agenda, date, time and place of each meeting</td>
<td>At least 24 hours before meeting</td>
<td>UCA 52-4-202</td>
</tr>
<tr>
<td>Notice of emergency meeting – Agenda, time and place of the emergency meeting</td>
<td>As soon as possible</td>
<td>UCA 52-4-202</td>
</tr>
<tr>
<td>Notice of Electronic Meeting – Agenda, Date, time and place of each meeting</td>
<td>At least 24 hours before meeting</td>
<td>UCA 52-4-202, UCA 52-4-207</td>
</tr>
<tr>
<td>Notice of Annual Meeting Schedule</td>
<td>At least once per year</td>
<td>UCA 52-4-202</td>
</tr>
</tbody>
</table>
ORDINANCES

Notice of ordinance adoption
Before ordinance takes effect
UCA 10-3-711

RDA / CDRA

Notice of adopted budget
Within 90 days after adoption of budget
UCA 17C-1-601.5

Notice of public hearing for
Annual Budget Amendments
At least once, 1 week in advance of the public hearing
UCA 17C-1-602
UCA 17C-1-601.5(4)

Notice of Annual Reports –
Audit
Within 180 days after end of agency's fiscal year
UCA 17C-1-605

Notice of Annual Audit
Within 6 months of the close of the fiscal year
UCA 51-2a-202

Notice of Taxing Entity
Committee Meeting –
Agenda, date, time, place of each meeting
At least 24 hours before meeting
UCA 17C-1-402
UCA 52-4-202

Notice to Taxing Entity
Committee Members
At least 10 days before the date of the meeting
UCA 17C-1-402(7)

RDA / CDRA URBAN RENEWAL PROJECT AREAS

A board may combine any combination of a blight hearing, a plan hearing and a budget hearing.
UCA 17C-1-802 & UCA 17C-1-805

RDA / CDRA – URBAN RENEWAL PROJECT AREA AND AMENDMENTS

Notice of public hearing on blight
At least 14 days before the day of the hearing
UCA 17C-1-806

Additional noticing requirement for blight
UCA 17C-1-807

Notice of public hearing on blight continued
At least 7 days before the hearing is to resume
UCA 17C-1-804

Notice of public hearing on plan
At least 14 days before the day of the hearing
UCA 17C-1-806

Additional noticing requirements for plan
UCA 17C-1-808
Notice of public hearing on plan continues  At least 7 days before the hearing is to resume  UCA 17C-1-804

Notice of plan adoption  Upon adoption of the plan  UCA 17C-2-108

Notice of public hearing on the budget  At least 14 days before the day of the hearing  UCA 17C-1-806

Additional noticing requirement for budget  UCA 17C-1-809

Notice of public hearing on budget continued  At least 7 days before the hearing is to resume  UCA 17C-1-804

RDA / CDRA ECONOMIC DEVELOPMENT PROJECT AREAS
A board may combine a plan hearing and a budget hearing.
UCA 17C-3-301

RDA / CDRA ECONOMIC DEVELOPMENT PROJECT AREAS

RDA

Notice of public hearing on plan  At least 14 days before the day of the hearing  UCA 17C-1-806

Additional noticing requirements for plan  UCA 17C-1-808

Notice of public hearing on plan continued  At least 7 days before the hearing is to resume  UCA 17C-1-804

Notice of plan adoption  Upon adoption of the plan  UCA 17C-3-107

Notice of public hearing on the budget  At least 14 days before the day of the hearing  UCA 17C-1-806

Additional noticing requirements for budget  UCA 17C-1-809

Notice of public hearing on budget continued  At least 7 days before the hearing is to resume  UCA 17C-1-804

CDRA

Notice of hearing on plan  At least 14 days before the day of the hearing  UCA 17C-1-806
Additional noticing requirements for amending a plan  

Notice of public hearing on plan continued  

Notice of plan adoption  

Notice of adoption of resolution or interlocal agreement with taxing entity committee consenting to funds being used for community development  

**STREET VACATION, RIGHT-OF-WAY OR EASEMENT**  

Notice of public hearing to consider vacation  

**SUBDIVISION ORDINANCE**  

Notice of public hearing by Planning Commission  

Notice of public hearing by City County for any land use ordinance  

Notice of any public meeting  

**SUBDIVISION PLAT OR AMENDMENT**  

Notice of City Council or designee of public meeting to consider vacation or amendment  

**CHAPTER 3 – COUNCIL MEETINGS AND MINUTES**  

Much of this chapter is quoted from the Utah Code.
COUNCIL MEETINGS – UCA 52-4-103

1. DEFINITIONS

The Utah State Legislature has deemed that political subdivisions within the state exist to aid in the conduct of people’s business and that their actions be taken openly, and their deliberations be conducted openly. All meetings of a public body shall be held in compliance with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

The Legislature has adopted the following definitions:

A. CONVENING: The calling of a meeting of a public body by a person authorized to do so, for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power. (UCA 52-4-103)

B. MEETING: The convening of a public body, with a quorum present, whether in person or by electronic means, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power. (UCA 52-4-103)

"Meeting" does not mean a chance meeting, a social gathering, a convening of a public body where no public funds are appropriated, a convening of a public body where no formal action is required, or a convening that is intended solely for the discussion or implementation of administrative or operational matters. (UCA 52-4-103)

Every meeting is open to the public (UCA 52-4-201) unless closed pursuant to UCA 52-4-204 and 52-4-205. A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with UCA 52-4-204 and 52-4-205.

C. REGULAR MEETING: The city council of each municipality shall, by ordinance, prescribe the time and place for holding its regular public meetings and hold a regular meeting at least once each month. (UCA 10-3-502)

D. SPECIAL MEETING: The mayor of a municipality or two council members may order the convening of a special meeting of the council. Each order convening a special meeting of the council shall be entered in the minutes of the council and provide at least three hours’ notice of the special meeting. The municipal recorder or clerk shall serve notice of the special meeting on each council member who did not sign the order by delivering the notice personally or by leaving it at the member’s usual place of abode. The personal appearance by a council member at a special meeting of the council constitutes a waiver of the notice delivery requirement. (UCA 10-3-502)

E. EMERGENCY MEETING: In the event of unforeseen circumstances, a public body may hold an emergency meeting to consider matters of an emergency or urgent nature. The normal 24-hour notice requirement may be disregarded and the best notice practicable given of the time and place of the meeting and the topics to be considered.

An emergency meeting may only be held if every attempt is made to notify all of the members and a majority approves the meeting. (UCA 52-4-202)

F. CLOSED MEETING: A closed meeting may be held upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given, provided a quorum is present. The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved (UCA 52-4-204):
1) reason(s) for holding the closed meeting;

2) location where the closed meeting will be held; and

3) vote by name of each member of the public body, either for or against the motion to hold the closed meeting.

Closed meetings may be held for the following reasons:

1) discussion of the character, professional competence, or physical or mental health of an individual;

2) strategy sessions to discuss collective bargaining;

3) strategy sessions to discuss pending or reasonably imminent litigation;

4) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of water right or water shares, if public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms;

5) strategy sessions to discuss the sale of real property, including any form of water right or water shares, when:
   a) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms;
   b) the public body had previously given public notice that the property would be offered for sale; and
   c) the terms of the sale are publicly disclosed before the public body approves the sale;

6) discussion regarding deployment of security personnel, devices or systems; and/or

7) investigative proceedings regarding allegations of criminal misconduct.

If a public body closes a meeting to discuss 1 or 6 above (personnel or security), the person presiding shall sign a sworn statement affirming that this was the sole purpose for closing the meeting. (See sample of Closed Meeting Sworn Statement under Sample Forms) No written minutes or tape recording of the content of the meeting is kept when addressing 1 or 6 above (personnel or security). (UCA 52-4-206)

A public body may not interview a person applying to fill an elected position in a closed meeting. (UCA 52-4-205)

An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting. (UCA 52-4-204)

Other than items 1 or 6 above (personnel or security), the public body is required to record closed sessions and may keep detailed written minutes that disclose the content of the closed meeting. Written
minutes are not required for a closed meeting. The recording and any minutes of a closed meeting must include:

1) the date, time, and place of the meeting;
2) the names of members present and absent; and
3) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting. (UCA 52-4-206)

A recording, transcript, report, and written minutes of a closed meeting are protected records under Title 63G, Chapter 2, Government Records Access Management Act, except that the records may be disclosed under a court order only as provided under UCA 52-4-304.

Notwithstanding the procedure established under UCA 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the judge shall review the recording or written minutes of the closed meeting in camera (privately, in his or her chambers, as opposed to open court) and decide the legality of the closed meeting. (UCA 52-4-304)

If the judge determines the public body did not violate the UCA 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from recording. If the judge determines that the closed meeting was held illegally, the judge will publicly disclose all information about the portion of the meeting that was illegally closed. (UCA 52-4-304)

G. ELECTRONIC MEETING: An electronic meeting is a public meeting convened or conducted by means of a conference using electronic communications. Established, written procedures governing the meeting are required to be adopted by the public body by rule, resolution, or ordinance prior to holding an electronic meeting. The adopting document can prohibit or limit electronic meetings based on budget, public policy, or logistical considerations. (UCA 52-4-207)

A public body must establish one or more anchor locations (physical locations), at least one of which is in the building where the public body would normally meet if they were not holding an electronic meeting. Space and facilities are to be provided so that interested persons and the public may attend, monitor and participate (if public comments will be accepted) in the open portions of the meeting. (UCA 52-4-207)

"Monitor," as referred to in the preceding paragraph, means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting. (UCA 52-4-103)

H. PUBLIC BODY: A public body must be created by statute, rule, ordinance or resolution. It includes any administrative, advisory, executive or legislative body that consists of two or more persons; expends, disburses, or is supported in whole or in part by tax revenue; and is vested with the authority to make decisions regarding the public’s business. (UCA 52-4-103)

I. QUORUM: A quorum is a simple majority of the membership of a public body. It does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power. (UCA 52-4-103)

The number of council members necessary to constitute a quorum is as follows:
1) in a municipality with a seven-member council, four;

2) in a municipality with a five-member council, three; and

3) in a municipality operating under a six-member council form of government, three, excluding the mayor. (UCA 10-3-504)

J. VOTE: A roll call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the municipality. A roll call vote shall be taken in any other case at the request of any member of the governing body. Such vote shall be taken by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before a vote is taken. (UCA 10-3-506)

2. PUBLIC NOTICE – UCA 52-4-202

The Utah Code requires the following forms of notice for public meetings:

A. ANNUAL MEETING SCHEDULE: A public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule, specifying the date, time and place of such meetings.

B. MEETING NOTICE: In addition to the annual schedule notice, a public body shall give not less than 24 hours' public notice of the agenda, date, time and place of each of its meetings by:

   1) posting written notice at the principal office of the public body, or if no principal office exists, at the building or anchor location where the meeting is to be held; and

   2) post public notices on the Public Notice Website, www.utah.gov/pmn/index.html. (Public notices include notices of all public meetings, hearings, or other actions undertaken by governmental entities and established by statute. The requirement is mandated in UCA 63F-1-701.)

   3) providing notice to at least one newspaper of general circulation within the geographic jurisdiction of the public body or to a local media correspondent.

C. AGENDA: Agendas that are issued with public notices need to provide reasonable specificity as to the topics to be considered at the meeting. The public body is prohibited from taking final action on topics that are not posted, unless the meeting is an emergency meeting. At the discretion of the presiding member of the public body, topics raised by the public may be discussed at a meeting even if they have not been placed on the agenda, so long as no final action is taken at the meeting.

D. ELECTRONIC MEETING NOTICE: In addition to the requirements listed in UCA 52-4-202, a public body that holds an electronic meeting must also post written notice at the anchor location and provide 24 hours' notice to the members of the public body, including a description of how the members will be connected to the meeting (i.e., "This meeting may be held telephonically in order for a Council member to participate.") (UCA 52-4-207)

E. EMERGENCY MEETING NOTICE: The normal 24-hour notice requirement may be disregarded and the best notice practicable given of the time and place of the meeting and the topics to be considered. An emergency meeting may only be held if every attempt is made to notify all of the members and a majority approves the meeting. (UCA 52-4-202)
MINUTES – UCA 52-4-203 through 52-4-206

1. DEFINITION

Minutes are a brief, accurate summary of the proceedings of a meeting. They include the actions taken by a public body and summary of the members' comments, if required to make the intent of their actions clear. The Utah Code states that written minutes and a recording shall be kept of all open meetings, unless the meeting is a site visit or tour during which no vote or action is taken. (UCA 52-4-203)

2. PURPOSE

Minutes are written to preserve a truthful and trustworthy account of the actions, intentions, laws and history of a public body in a form that is concise, objective and clear. Minutes may at some time be called as evidence in a court of law. Minutes are the history of the community and should contain as much information as necessary for clarity.

3. REQUIREMENTS

The governing body of each municipality shall keep minutes of its proceedings. The books, records, accounts and documents of each municipality shall be kept at the office of the city recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. (UCA 10-3-603)

A. STATUTORY REQUIREMENTS: Minutes of an open meeting shall include the following:

1) date, time and place of the meeting;

2) names of members present and absent (time of late arrivals should be noted);

3) substance of all matters proposed, discussed, or decided by the public body, and a record, by individual member, of each vote taken;

4) the name of each person who is not a member of the public body; and after being recognized by the presiding member of the public body, provided testimony or comments to the public body and the substance, in brief, of the comments provide by such person; and

5) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes. (UCA 52-4-203)

B. GRAMA: Both draft and approved minutes are public records subject to GRAMA.

Minutes should be made available to the public within "a reasonable time after the meeting." Minutes circulated before approval by the public body should be stamped or otherwise identified as draft, unapproved, or some other language that indicates that they are subject to change until formally approved. (UCA 52-4-203) Most computer programs have a watermark function to identify draft documents.

C. CLOSED MEETINGS: Proceedings of a closed meeting shall be recorded and the recording shall include the following:

1) date, time and place of the meeting;
2) names of the members present and absent;

3) names of all others present, except where such disclosure would infringe on the confidence necessary to fulfill the original purpose of closing the meeting; and

4) the reason or reasons for holding the closed meeting and the vote either for or against the proposition to hold such a meeting, cast by each member by name. (UCA 52-4-206)

If the meeting is held solely for the purpose of discussing personnel or security issues, an affidavit may replace the recording. (See sample affidavit at the end of this chapter.)

Detailed written minutes that disclose the content of the closed meeting may also be kept, but are not required.

D. RECORDINGS: Recordings of all open and closed meetings must be made by the recorder or secretary and shall be a complete and unedited record of all portions of the meeting from commencement of the meeting through adjournment. Audio recordings are considered public documents and must be properly labeled or identified with the date, time and place of the meeting.

A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting. Audio recordings must be kept for one year following approval of the official minutes (as noted in the State Municipal Retention Schedule), or longer if your municipality determines otherwise, provided any litigation has been resolved.

All or any part of an open meeting may be recorded by any person in attendance, provided that the recording does not interfere with the conduct of the meeting. (UCA 52-4-203)

E. NOTES: Notes made by the secretary or recorder for use in minutes preparation are the possession of that person and are not public documents.

F. APPROVAL: Utah Code states that a public body shall establish procedures for approval of minutes. UMCA suggests using the procedure outlined in Robert's Rules of Order. Minutes should be circulated to members of the council before the meeting at which they will be approved. The minutes of the current meeting should reflect that those minutes were "approved as presented," or if the minutes have been corrected, the minutes of the current meeting should reflect that those minutes were "approved as corrected or amended." (Robert's Rules of Order, 11th Edition, Section 41)

G. MULTIPLE SETS OF MINUTES: If more than one set of minutes needs approval, they should be considered in the order in which the meetings took place. (Robert's Rules of Order, 11th Edition, Section 41)

H. CONTENT: Minutes need to be as clear and concise as possible. They need to show clearly the exact actions of the public body, including remarks that clarify the intent of the public body. The following format is a composite of a number of sources of information, including Robert's Rules of Order and IIMC Meeting Administration Handbook.

   1) date, time and place of meeting;

   2) type of meeting (regular, special, etc.);

   3) the time at which the meeting was called to order (the scheduled time in the header and the actual time in the body);
4) names of members of the public body present or absent and the name of the person presiding;

5) staff members present;

6) names of others present is a matter of preference of the body (at a minimum, the names of people who spoke before the body);

7) call to order and invocation, if given;

8) consent agenda items and one motion either approving or denying the items all together (items may be removed from the consent agenda and placed on the regular agenda if they require discussion);

9) approval of minutes of previous meeting(s), which may be included on a consent agenda;

10) items to be voted on, including a description of the item and any council members’ comments needed to make the intent of the vote clear;

11) motions, including the name of the person making the motion, the name of the seconder, whether the motion passed or failed (some motions require a roll call vote, as well);

12) time of adjournment; and

13) a signature block for the secretary or recorder and, if desired, for the chair of the public body.

Each item to be voted on should begin in a new paragraph. The paragraph heading should be typed in bold or uppercase letters and/or underlined, and identify the item by its agenda name and/or number.

If electronic information, relating to an item on the meeting agenda, is presented at an open meeting, an electronic or hard copy of the electronic information shall be provided, at the time of the meeting, for inclusion in the public record. Any public materials distributed at an open meeting shall be posted to the state website within three business days after the written minutes of the open meeting have been approved. (UCA 52-4-203)

I. STYLE:

1) Text should be single spaced, with double spacing between paragraphs.

2) Agenda items should be identified by their name and/or number.

3) Text can be left-justified or fully-justified (an even margin on both sides).

4) Captions (subject and abbreviated action) may be typed in the right or left-hand margin to facilitate locating and identifying items later.

5) Capitalize and center the heading designating the meeting, time, date and place.

Note whether this was a regular, special, work or emergency meeting.
6) Avoid the use of acronyms and abbreviations. Those that are understandable today may not be in the future.

7) Be consistent with titles, names and addresses. Use official names and addresses of locations.

8) Avoid the use of the words "I" and "we." Use third person or specific names. Use past tense.

9) Be gender conscious: don't use "Councilman" or "Chairman"; use "Council Member" or "Chair or Chairperson." The person being designated may not care, but the minutes will have a more professional look.

10) Use variety in the wording of the minutes. The minutes preparation book from IIMC has a very complete list of synonyms. Make good use of spell check and grammar check if your computer has them.

11) When minutes are at a draft stage, it helps to have another proofreader look at them for typos, etc.

12) Use the agenda as a basis for your notes. Before the meeting, make a copy of either the paper agenda or the computer agenda document and make a 2" space (or more) between items to use for note-taking.

13) If you use audiotape to record meetings, make a note of where each side of the tape begins. This makes it easier to find a particular item without listening to an entire set of tapes.

14) When recording votes, be consistent and list in alphabetical order.

15) The actual motion can be underlined, italicized, bold, or in solid caps to set it apart from the main body of the text. The motion should say: "Council Member Anderson moved to . . ." rather than "Council Member Anderson made a motion to . . ."

16) Know which motions need a roll call vote. A roll call vote shall be taken and recorded for all ordinances, resolutions, or any action taken by the governing body which would create a liability against the municipality, and at any other time when requested by a member of the governing body. (UCA 10-3-506)

17) Make notations in the margin to help locate items if your computer doesn't have a scan system; information needs to be accessible.

18) Use footers or headers, and page numbers to identify document pages.

19) Be precise and concise. Know your audience and purpose, trim excess wording and avoid clichés.

20) Refer to speakers by last name, not first name or Nickname.

J. CORRECTION
1) Minutes as circulated to the members of the public body before approval are considered a draft and should be clearly identified as "awaiting formal approval." Draft minutes are a public record and must be provided if requested under GRAMA. (UCA 52-4-203)

2) Minutes belong to the public body and not to the recorder or secretary; the recorder, however, is the custodian of the minutes.

3) If minutes are included on the consent agenda and corrections are needed, a motion should be made to remove the minutes from the consent agenda to the regular agenda, where they can be acted upon accordingly.

4) Amendments or corrections should be recorded in detail in the minutes of the meeting in which they were approved. Following the meeting, the corrections should be incorporated into the final copy. There are several correct ways to do this, according to legal counsel for the Utah League of Cities and Towns (ULCT):

   a) Make corrections on your copy of the minutes, lining through the deletions with a red pen; then, in neat writing or printing make amendments or additions right on your copy; if there is not room for additions or corrections, make them on a separate piece of paper and attach firmly; this now becomes the official set of minutes. This is the method suggested by Robert's Rules of Order.

   b) Make corrections by noting corrections during the meeting and then make corrections in the computer to generate a completely new set of minutes. Corrections can be clearly noted by using the "strike out" or "line through" feature in most computer programs, and highlighting in yellow the added amendments, creating the official set of minutes.

   In either case, the final set of minutes should contain ALL of the corrections, amendments or additions as part of the business of the approval of minutes.

5) The Utah Code does not specify a required way to correct minutes. This may need to be established by Council action.

6) Approved, corrected minutes need to be signed by the secretary or recorder, and if desired, by the chair of the public body.

7) Written minutes are a permanent record and should never be destroyed.

8) Use acid free paper for the permanent set of minutes.

9) Minutes should be bound on acid-free paper in a permanent binder and kept in the recorder's office. Some municipalities make a second set of minutes available in a loose binder for the convenience of the public to view and for easier copying.

There is still some debate over how far in the future minutes can be amended or corrected. UCA 10-3-508 states: "Any action taken by the governing body may not be reconsidered or rescinded at any special meeting unless the number of members of the governing body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved." This indicates that any action taken would also need an amendment to the minutes. Robert's Rules of Order and the IIMC book on minutes state that "the substance" of the minutes can be amended any
time; however, the actions taken cannot be changed or amended at future dates simply by amending the minutes.

CHAPTER 4 – ORDINANCES AND RESOLUTIONS

ORDINANCES

1. DEFINITION

An ordinance is defined as a local law created by legislative action of a municipality.

2. PURPOSE

The governing body may pass ordinances to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute. Municipalities may not exercise any powers without ordinances, except where permitted by state law. State law authorizes municipalities to conduct municipal elections and imposes certain duties on the statutory offices of the municipality. Police officers are charged to enforce state laws. If a municipality does not have ordinances, it cannot collect revenues or make expenditures. Salaries of statutory officers must be set by ordinance, and other positions must be created by ordinance. (UCA 10-3-701)

3. TYPES OF ORDINANCES

A. General Ordinances

General Ordinances regulate the conduct of people or certain groups, and usually contain penalties.

Examples: Traffic ordinances, health ordinances, administrative ordinances, and public offense ordinances,

B. Special Ordinances

Special ordinances are passed for a single special purpose. As soon as they take effect, their purpose has been accomplished.

Examples: Ordinance calling for a special election, ordinance establishing a special improvement district.

C. Budget Ordinances

Budget ordinances adopt the budget for a municipality. The budget may also be adopted by resolution. Amendments to the budget, or budget openings, are done by ordinance if the budget was adopted by ordinance. In Utah, the tax rate may be imposed by ordinance or resolution.

4. ORDINANCE PREPARATION

Depending on procedures set out by individual cities, ordinances may be prepared by a variety of offices, depending on the subject, or by the city recorder or city attorney. If they are prepared in an office other than the city attorney's office, it is an important safeguard to have the city attorney review final drafts before presentation to the city council for adoption.
5. **ORDINANCE FORMAT – UCA 10-3-704**

All ordinances must be in written form prior to passage. The written form of an ordinance should substantially be the following:

A. A number.

B. A title which indicates the nature of the subject matter of the ordinance.

C. A preamble which states the need or reason for the ordinance. This can be inserted between the title and the ordaining clause. Another option is to place the explanation for need in the first section of the ordinance in lieu of a preamble, and this section is designated a legislative finding.

D. An ordaining clause which states, "be it ordained (or resolved) by the (name of the governing body and municipality)." This is the same for all municipalities regardless of the class or type of government.

E. The body or subject of the ordinance. The subject matter of an ordinance is stated in sections, referred to as the body of the ordinance. An ordinance should not contain more than one subject. Usually, but not always, a paragraph constitutes a section. It is better practice to keep the sections short and to have more numbered sections. Sometimes a headnote indicating the content of the section is placed at the beginning of each section. This is not required, but is helpful to readers and is advisable in codes or revisions.

F. When applicable, a statement indicating the penalty for violation of the ordinance. If the ordinance is a penal ordinance, the penalty is usually in a separate section at the end of the ordinance; however, several sections may have penalties of their own. An ordinance which requires a standard of conduct, but has no penalty for violating a standard either in the body of the ordinance or by reference to the general penalty section elsewhere, is not an enforceable criminal ordinance.

G. A statement indicating the effective date of the ordinance or when the ordinance shall become effective.

H. A place for the signature of the mayor or acting mayor or council chair (depending on the city's form of government).

I. A place for the municipal recorder to attest to the signature of the mayor or acting mayor or council chair.

It is recommended ordinances be typed on regular 8-1/2" x 11" paper rather than legal size paper, as it is easier to store and find binders for.

6. **PASSAGE OF ORDINANCES**

No ordinance may be adopted by a municipality except in an open and public meeting held pursuant to the provisions of the Utah Open and Public Meetings Act. (UCA 52-4-1)

7. **PUBLIC HEARING**

Most ordinances do not require public hearings prior to their adoption, and may be introduced, considered and passed at the same meeting. The exceptions to this general rule include:

A. Ordinances adopting salary schedules for elected officers and officials which require a public hearing upon seven (7) days' notice. (UCA 10-3-818)
B. Ordinances adopting a tax levy or budget which requires a public hearing of at least 48 hours in towns and seven (7) days in cities.

C. Land use ordinances which generally require a minimum of 14 days' notice of the public hearing.

8. ROLL CALL VOTE REQUIRED – UCA 10-3-506

The law requires a roll call vote on all ordinances. Ordinances must be in writing before the vote is taken. An ordinance written in shorthand, long-hand or typewritten fully complies with the law. An outline, summary or partial writing does not comply. An actual majority of the total membership of the governing body is necessary to pass an ordinance.

9. NUMBERING, RECORDING, CERTIFICATION – UCA 10-3-713

The law requires a roll call vote on all ordinances. Ordinances must be in writing before the vote is taken. An ordinance written in shorthand, long-hand or typewritten fully complies with the law. An outline, summary or partial writing does not comply. An actual majority of the total membership of the governing body is necessary to pass an ordinance.

10. ORDINANCE SIGNATURES – UCA 10-3-705

Ordinances are to be signed by the mayor (mayor pro tem if the mayor is absent), or by a quorum of the governing body. Only when the mayor or mayor pro tem refuses to sign the ordinance are the signatures of the council members required. The city recorder must attest the ordinance and affix the city seal. In municipalities where the mayor may disapprove (veto) an ordinance, the ordinance should indicate whether the mayor approved or disapproved. If passed over the disapproval of the mayor, the ordinance should so indicate. If the ordinance is passed over the mayor's disapproval, in place of the line starting with "Approved," the sentence is replaced with "Passed over the mayor's disapproval." As to ordinances neither approved nor disapproved by the mayor within the 15-day period provided by law, the statement is "Effective without the approval or disapproval of the mayor."

11. EFFECTIVE DATE – UCA 10-3-712

An ordinance which does not have an effective date, shall become effective 20 days after publication or posting, or 30 days after final passage, whichever is sooner. Ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

12. ORDINANCE PUBLICATION/POSTING – UCA 10-3-711

Municipalities must publish a short summary of an ordinance or post copies of the complete ordinance.

A. Publication. Municipalities must publish in a newspaper of general circulation in the municipality. To be "published" in a municipality, it is not necessary that the newspaper be printed in the municipality. It is published in the municipality if the masthead states that it is publishing in the municipality.

B. Posting. If no newspaper of general circulation is published in the municipality, then three copies of the ordinance must be posted in public places, such as the post office, church bulletin boards, telephone poles, gas stations, grocery stores, and the city hall for all municipalities except a city of the first class which must post in nine public places. Posting must be within the municipality. There is no minimum time for which an ordinance must be posted. It is sufficient that the officials of the municipality not remove the ordinances before the public has had a reasonable opportunity to read the ordinances.

C. Publication/Posting Exemptions. State law permits municipalities to adopt ordinances, odes of books relating to building, safety standards, municipal functions, controls or regulations by reference. Where a
code, ordinance or book is adopted by reference, only the adopting ordinance needs to be published or posted. Cities or towns must have at least one copy of the code, ordinance or book on file for use and examination by the public.

13. PUBLICATION RESPONSIBILITY

The city recorder is responsible for posting ordinances at public places or seeing that such materials are delivered to the proper newspaper for publication. The city recorder should also make sure the proper certificate of publication is obtained from the newspaper for each legal publication (proof of publication), and that such certifications are on file for possible future use.

14. ORDINANCE AMENDMENT OR REPEALS

An ordinance can only be amended or repealed by ordinance. An ordinance which amends another ordinance should state the entire section being amended. An amending ordinance should not merely state that a sentence is added or that a word is changed in a particular line of a sentence. In such a case, the entire section should be stated with the sentence added and the word changed.

15. CODIFICATION/COMPILATION

An ordinance can only be amended or repealed by ordinance. An ordinance which amends another ordinance should state the entire section being amended. An amending ordinance should not merely state that a sentence is added or that a word is changed in a particular line of a sentence. In such a case, the entire section should be stated with the sentence added and the word changed.

A. Codification. Codification entails restatement and revisions (without substantive change) of the text of the city’s ordinances, and repeal of duplicating, obsolete and invalid ordinances and portions of ordinances. Most importantly of all, a codification requires enactment as the law of the city, which is referred to as the Municipal Code. Municipalities may also change, alter, modify, add and substitute ordinances as deemed necessary to update the Municipal Code. Codifications may be arranged in any order the governing body decides. Codifications may exclude such things as the title of an ordinance, the enacting clauses, and the signature of the mayor, attestations, and other formal parts.

B. Compilation. Compilation pulls together, organizes and indexes a city’s ordinances, but does not change them. No legislative action by the council is required for a compilation.

RESOLUTIONS

1. DEFINITION

A document used to exercise administrative functions.

2. PURPOSE

Municipalities may provide that items established in ordinances which are subject to change, such as a service charge or fee, may be established by resolution. The governing body may pass resolutions to establish water and sewer rates, charges for garbage collection, adopting personnel policies, or establish guidelines regulating the use of municipal property. (UCA 10-3-717)

3. TYPES OF RESOLUTIONS

A. Administrative Resolutions
Administrative Resolutions deal with administrative functions, such as setting fees.

B. Honorary Resolution

Honorary Resolutions are used to honor people or entities for outstanding service or accomplishments. (This can also be done by proclamation – see sample.)

4. RESOLUTION PREPARATION RESPONSIBILITY

Depending on procedures set out by individual cities, resolutions may be prepared by a variety of offices, depending on the subject, or by the city recorder or city attorney. If they are prepared in an office other than the city attorney's office, it is an important safeguard to have the city attorney review final drafts before presentation to the city council for adoption.

5. RESOLUTION FORMAT

All resolutions must be in written form prior to their passage. The written form of a resolution should substantially be the following:

A. A number.

B. A title which indicates the nature of the subject matter of the resolution.

C. A preamble which states the need or reason for the resolution. This can be inserted between the title and the ordaining clause. Another option is to place the explanation for need in the first section of the resolution in lieu of a preamble, and this section is designated a legislative finding.

D. An ordaining clause which states, "be it ordained (or resolved) by the (name of the governing body and municipality)." This is the same for all municipalities regardless of the class or type of government.

E. The body or subject of the resolution. The subject matter of a resolution is stated in sections, referred to as the body of the resolution. A resolution should not contain more than one subject. Usually, but not always, a paragraph constitutes a section. It is better practice to keep the sections short and to have more numbered sections. Sometimes a headnote indicating the content of the section is placed at the beginning of each section. This is not required, but is helpful to readers.

F. When applicable, a statement indicating the penalty for violation of the resolution.

G. A statement indicating the effective date of the resolution or when the resolution shall become effective.

H. A place for the signature of the mayor or acting mayor or council chair (depending on the city's form of government).

I. A place for the municipal recorder to attest to the signature of the mayor or acting mayor or council chair.

It is recommended resolutions be typed on regular 8-1/2" x 11" paper rather than legal size paper, as it is easier to store and find binders for.

6. PASSAGE OF RESOLUTIONS

No resolution may be adopted by a municipality except in an open and public meeting held pursuant to the Utah Open and Public Meetings Act. (UCA 52-4-1)
7. PUBLIC HEARING

Most resolutions do not require public hearings prior to their adoption, and may be introduced, considered and passed at the same meeting. The exceptions to this general rule include:

Resolutions adopting a tax levy or budget which requires a public hearing of at least 48 hours in towns and seven (7) days in cities.

If there is not a specific state statute requiring a public hearing prior to the passage of a resolution, then no public hearing is required. See Public Noticing/Filings Chapter of handbook for specific noticing requirements and time frames.

8. ROLL CALL VOTE REQUIRED

The law requires a roll call vote on all resolutions. Resolutions must be in writing before the vote is taken. A resolution written in shorthand, long-hand or typewritten fully complies with the law. An outline, summary or partial writing does not comply. An actual majority of the total membership of the governing body is necessary to pass a resolution. The only exception to the roll call requirement is for an honorary resolution.

9. NUMBERING AND RECORDING

Resolutions must be recorded before taking effect. Recording is when the city recorder records in a book, used for that purpose, all resolutions passed by the governing body. The city recorder gives each resolution a number, if the governing body has not already done so.

10. RESOLUTION SIGNATURES

Resolutions are to be signed by the mayor (mayor pro tem if the mayor is absent), or by a quorum of the governing body. Only where the mayor or mayor pro tem refuse to sign are the signatures of the council members required. The city recorder must attest the resolution and affix the city seal. In municipalities where the mayor is not a part of the city council, the resolution is signed by the council chair or president.

11. EFFECTIVE DATE

Resolutions may become effective without publication or posting and may take effect on passage or up to three months after passage.

12. RESOLUTION PUBLICATION RESPONSIBILITY

Resolutions are less formal than ordinances and need not be published. The only exception would be the tax levy or budget resolutions, which may or may not be published.

13. PUBLICATION RESPONSIBILITY

The city recorder is responsible for posting budget or tax levy resolutions at public places or seeing that such materials are delivered to the proper newspaper for publication if so directed. The city recorder should also make sure the proper certification of publication is obtained from the newspaper for each legal publication (proof of publication), and that such certifications are on file for possible future use.
14. RESOLUTION AMENDMENT OR REPEALS

A resolution can only be amended or repealed by resolution. A resolution which amends another resolution should state the entire section being amended. An amending resolution should not merely state that a sentence is added or that a word is changed in a particular line of a sentence. In such a case, the entire section should be stated with the sentence added or word changed.

CHAPTER 5 – PARLIAMENTARY PROCEDURE


1. PURPOSE

The purpose of parliamentary rules is to facilitate action. They embody the following principles:

- The rights of all must be recognized and protected: the majority, the minority (especially a strong minority of greater than 1/3), the individual, those absent from the meeting, and all these together.
- The minority must be heard.
- Members have the right to enter into discussion on every proposal.
- Members have the right to speak in opposition to any measure.
- Every proposition is entitled to full and free discussion.
- Every member has the right to express an opinion freely as long as they abide by the rules of debate and are proper in their conduct.
- Final authority is vested in the majority of members and final decisions are made by the majority.

Any organization may borrow and adopt Robert's Rules as it sees fit. The parliamentary authority, which is the rules of order specific to any given organization, varies from society to society. As General Robert suggested, it is important that the organization, regardless of its purpose and membership and the like, should maintain parliamentary procedures similar to those of other organizations, if only for the sake of consistency.

2. HISTORY AND ORIGINS OF PARLIAMENTARY PROCEDURE

English Law – In the historical sense, parliamentary law referred to the customs and rules related to business in the English Parliament. These rules provided the following guidelines:

- Treat one subject at a time.
- Alternate between opposite points of view in discussion.
- Maintain decorum in discussion and avoid personality issues in debate.
- Confine debate to the merits of the question under discussion.
- A question with more than one part may be divided into two votes. Members may be for one part of a question and not for another. (Robert, 11th Ed., xxxiv)
Early Developments in American Parliamentary Law: Jefferson and Cushing – In 1801, Thomas Jefferson published the first book on parliamentary procedure designed for legislative use in the United States, Manual of Parliamentary Practice. Jefferson, in the preface of this guide, wrote, "The proceedings of parliament in ancient times, and for a long while, were crude, multiform, and embarrassing. They have been however constantly advancing towards uniformity and accuracy."

In 1845, Luther Cushing, clerk of the Massachusetts House of Representatives, published the Manual of Parliamentary Practice: Rules of Proceeding and Debate in Deliberative Assemblies. The manual soon became known as "Cushing's Manual." It was the first sourcebook on parliamentary procedure that spoke to the procedural needs of the many non-legislative societies in the United States.

Eventually, parliamentary rules were being used at all levels of government, but these rules had not yet been modified for use by smaller organizations. Henry Martyn Robert, an Army engineering officer, took on the task of making such a modification. General Robert's manual eventually encompassed over two hundred pages and was published as Robert's Rules of Order in 1876. In 1915, a thorough revision was published as Robert's Rules of Order Revised. In 1970, another general revision was published as Robert's Rules of Order Newly Revised. Newer editions containing minor changes continue to be published.

3. DEFINITIONS

A. Parliamentary procedure – a set of basic rules for conducting meetings. The rules have been collected into Robert's Rules of Order and other procedural guides. They can be adapted to fit the needs of any organization.

B. Agenda – a document listing the order of business, prepared to ensure that important information is discussed in a logical order. A typical agenda might include a call to order, roll call, announcements, approval of minutes, reports, unfinished business, new business and adjournment.

C. Quorum – the minimum number of members of a governing body who must be present to vote on items of business. The number of council members necessary to constitute a quorum:

   In a municipality with a seven-member council, four;

   In a municipality with a five-member council, three; and

   In a municipality operating under a six-member council form of government, three, excluding the mayor. (Utah Code 10-3-504)

D. Motion – a proposal by a group member that the group take action on an issue. Another member seconds the motion. The issue then becomes the property of the group and cannot be amended without group consent. The issue is open for debate. When there is no further debate, the chair can ask for a vote. A motion can be considered only when no other motion is pending.

E. Amendment or subsidiary motion to amend – a motion to modify the wording and, within certain limits, the meaning of a pending motion before the pending motion itself is acted upon.

F. Vote – consensus that may be reached by several methods:

   1) General consent. The chair says, "If there is no objection . . ." Members who agree remain silent. If anyone objects, another vote is taken.

   2) Voice. Those in favor say "aye" and those opposed say "no."
3) Show of hands. Hands are raised at the chair’s request to show a majority without giving an exact count.

4) Ballot. A written vote is used when secrecy is desired.

5) Roll call. The chair calls on each member individually when a record of each member’s vote is desired. In municipalities, this is required for ordinances, resolutions and other actions that create a liability against the municipality. (Utah Code 10-3-506)

4. RIGHTS AND RESPONSIBILITIES OF MEMBERS AND OFFICERS

A. Rights

1) Receive notices of meetings and attend meetings

2) Make motions, second, debate and vote on motions (unless there is a conflict of interest)

3) Abstain from voting or recuse from a vote

4) Nominate members and be nominated for office

5) Elect members to office and be elected to office

6) Object when rules are violated

7) Appeal the decision of the chair

8) Not suffer personal abuse or attack

9) Have access to all codes and minutes of meetings

B. Responsibilities

1) Attend meetings, arriving on time and staying until the end

2) Be prepared to discuss scheduled items and actively participate

3) Participate according to the rules of procedure

4) Debate with decorum

One of the responsibilities of members is to debate with decorum and deal responsibly with the outcome. In his book, General Robert stated that, “The great lesson for democracies to learn is for the majority to give to the minority a full, free opportunity to present their side of the case, and then for the minority, having failed to win a majority to their views, gracefully to submit and to recognize the action as that of the entire organization, and cheerfully to assist in carrying it out, until they can secure its repeal.”

(Robert, 11th Ed., xlix)

5. RULES OF ORDER BASIC GUIDELINES

A. Recognition of members by the chair

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Prior to speaking on a measure, members must be recognized by the chair ("obtain the floor").

Parliamentary procedure sets precedence for recognition.

1) The chair calls on the maker of a motion to speak first. The maker of a motion may not speak against it.

2) When the speaker is done, he or she "yields the floor."

3) The chair may choose who speaks next. A member opposed to the proposition should be given the opportunity to follow the member who is in favor thereof.

4) Debate should alternate between those in favor and those opposed. If the debate is one-sided, the chair may ask if any member wishes to speak on the opposing side.

5) A member who has not spoken should be recognized ahead of one who has already spoken on the issue.

6) The chair must recognize any member entitled to request the floor; nevertheless, the chair has the right to ask the member the purpose of the speech.

7) If the chair claims the floor, any member must yield the floor to the chair.

8) A member who interrupts the one speaking or asks to speak next before the current member is finished is out of order.

9) Members only have the right to speak twice on an issue, unless the chair permits more.

10) The presiding officer has the right to refuse to recognize a member whose sole purpose is to obstruct the transaction of business.

    (Robert, 11th Ed., 376)

B. Basic Principles of Debate

1) General list of actions before debate on a question

a) A motion must be made.

b) If the motion includes a resolution, it must be in writing.

c) The chair must state the motion.

d) The motion is then pending, meaning it is open to debate. The members may decide to limit or extend debate, such as setting the length allotted to speeches or requiring that the question be voted on at a specific time.

e) A member wishing to have more information on a matter being debated requests a point of information.

f) After a motion has been made, it may be amended or withdrawn.

g) During the vote on a motion, it may be adopted or carried, or lost or rejected.
h) The chair announces the result of the vote.

(Robert, 11th Ed., 386)

2) Obtaining the floor and speaking on matters

Before a matter can be brought before the people in the meeting, the member wishing to introduce the matter must obtain the floor; that is, be recognized by the chair as having the right to be the only person speaking at the time. The chair must recognize any member entitled to request the floor; nevertheless, the chair has the right to ask the member the purpose of the speech. When a member has finished speaking, he or she yields the floor, thus signaling to the chair that another member may be recognized. (Robert, 11th Ed., 376)

3) Interruption of member granted the floor

When a member has been granted the floor and has begun to speak, unless he or she begins to discuss a subject when no motion is pending or speaks longer in debate than the rules allow, that member cannot be interrupted by another member or by the chair except for one of the following purposes, and only when the urgency of the situation justifies it:

a. A call for the orders of the day (when they are not being conformed to)

b. The raising of a question of privilege

c. A point of order

d. A call for a separate vote on one or more of a set of independent actions on different subjects that have been offered by a single motion

e. A request or inquiry that requires an immediate response

f. An appeal (in special circumstances)

g. An objection to the consideration of a question (in special circumstances)

h. A division of the Assembly

(Robert, 11th Ed., 384)

4) Decorum in debate

Robert's Rules of Order suggests the following guidelines for maintaining civility and fairness during discussion. These guidelines are particularly important when controversial issues arise in discussion.

a) Confine remarks to the merits of the question.

b) Attack issues, not people. The measure is under discussion, not any of the members. Any member who attacks another should be ruled out of order.

c) Address all remarks through the chair. Members should not directly address one another and should avoid using members' names.
d.) Refrain from speaking adversely on a prior action not pending. Debate on a measure does not include negative comments on a previous action.

e) A member must not speak against his or her motion.

f) A member may not read from any paper or book as part of debate if any other member objects; however, a member may read a short statement.

g) A member holding the floor must sit if the chair interrupts to make a ruling, give information or make other comments allowed by his or her position.

h) Members must not disturb the meeting by whispering, walking around, etc. If such activities don't disturb the meeting, they are allowed.

i) The chair must not participate in debate unless he or she requests that the next-ranking officer preside over the meeting.

(Robert, 11th Ed., 394)

5) Circumstances when debate is not permitted

a) There is a motion to adjourn, table the current or move to the next proposition.

b) There is a motion to fix the time for adjourning.

c) There is an appeal on the priority of business or on the irrelevance of debate.

d) There is an appeal of a member called to order for transgression of the rules of speaking.

(Robert, 11th Ed., table p. 42)

C. Expediting Business

1) By the chair

a) Have all necessary documents on hand.

b) Have a complete agenda ready.

c) Use a consent agenda.

d) Require that business items not be discussed without a motion.

e) Bring a question to an immediate vote when debate appears to be over.

f) Enforce the rules of debate.

g) Ask that lengthy motions be put in writing.

h) Keep discussion on track.

2) By Members
D. Understanding Motions

Understanding the variety of motions, their rankings and uses is one of the keys to running and taking part in a successful meeting. A list of the eight keys to making motions follows.

1) Main Motion

The main motion, the most common of motions in parliamentary procedure, brings business before the assembly. Ironically, these are the lowest-ranked motions. You will often hear the term resolution used interchangeably with motion. A resolution is typically a more formal motion which is presented in writing. Commonly, a resolution may be the result of committee work and the research of the committee is presented in the formal style of a resolution.

   a) There are seven steps necessary to obtain action upon a main motion:

      i) A member obtains the floor.

      ii) The member makes the motion by saying, "I move that..." It is incorrect to say, "I make a motion..." or "I move that you..."

      iii) Another member seconds the motion.

      iv) The chair states the motion: "It has been moved and seconded that..."

      v) The chair asks if there is any discussion.

      vi) Putting the question: the chair takes the vote.

      vii) The chair states the results of the vote.

   b) When a motion contains several parts which may be individually debated, the motion may be divided (known as "division of the question"). A report or long motion may also be broken up and considered by opening the different parts to debate and amendment separately, without division of the question.

   c. The motion must be made at the appropriate time in the order of business.

2) Subsidiary Motions (Ranked)

A subsidiary motion is one applied to other motions to help members dispose of main motions. It cannot stand alone.
a) Lay on the Table. When members wish to set aside a motion without specifying a time to resume debate on the issue, the majority of the assembly has the power to immediately halt debate on the question. Commonly, the motion to lay on the table is used when another matter of pressing importance arises. It is often ruled out of order if its intent is to kill debate. It is often confused with "postpone indefinitely" and "postpone to a certain time" and is also mistakenly known as a motion to table.

A question that has been laid on the table may be removed from the table with a motion to take from the table in the same or subsequent session through a majority vote. If the question is not taken from the table by the next meeting of the assembly, it dies but may be reintroduced later as a new question.

b) Previous Question (aka Motion to Close Debate). When members wish to bring a motion to an immediate vote, they may move the previous question to limit discussion.

c) Limit or Extend Limits of Debate. The assembly may decide to either limit or extend debate, such as the length of time allotted to speeches or that the question shall be put to a vote at a specific time.

d) Postpone to a Certain Time. This motion allows the assembly to postpone consideration of a question to a future time or date. This should not be confused with "postpone indefinitely," which actually kills the motion.

e) Commit or Refer. This allows the motion to be sent to a committee for further study or redrafting.

f) Amend. The most common of subsidiary motions, this allows a motion to be made more specific when it is unclear or too broad. An amendment must be germane, that is, it must have bearing on the subject of the motion being amended.

g) Postpone Indefinitely. This is a motion used if the assembly declines to take a position on the main question. Its adoption kills the main motion for the duration of the session and avoids a direct vote on the question. In other circumstance, if a member has brought a main motion that could cause people to become embarrassed or uncomfortable, a motion may be made to remove it from that meeting. This is a strategy whose purpose is to get a sense of how the assembly will vote on the main question, without having to actually come to a vote.

3) Incidental Motions (Unranked)

An incidental motion always comes from another motion on the floor. These motions take precedence over all other motions except privileged ones. They must be made at the correct point in the debate.

a) Point of Order. When a member thinks the rules of an assembly have been violated, he or she may make a point of order, thereby calling for the chair's ruling to restore order.

b) Appeal. This motion is used to appeal the chair's ruling on an issue. A majority or tie sustains the chair's ruling. The chair can vote on this motion.

c) Objection to the Consideration of a Question. After a motion has been made, but before debate on the motion occurs, a member may move to object to the consideration of the
question. Such a motion is made if a member feels that a main motion will harm the organization. The purpose is not to cut off debate, but to prevent discussion of a pointless or potentially inflammatory topic.

d) Requests and inquiries. The purpose of this incidental motion is to obtain more information and have the assembly do something which requires its permission. They include:

i) Reading Papers. A request that papers be read before the assembly, usual for the purpose of gaining more information. If there were not general rule against reading, a member could theoretically read from books and reports indefinitely.

ii) Withdrawing or Modifying a Motion. This motion is used only when a motion is pending. After the chair restates a motion or resolution, it becomes the property of the assembly. If there is an objection to consent, the chair may request a subsidiary motion to amend.

iii) Parliamentary Inquiry. A member may request the chair’s ruling on a matter of parliamentary procedure. This is answered by the chair.

iv) Point of Information. A point of information is a request about the matter being debated. This is also answered by the chair.

v) Request to be Excused from a Duty. This may only be granted by the membership.

vi) Request for Any Other Privilege. This may only be granted by the membership. An example is a member who wishes to make a presentation when there is no pending motion.

e) Suspending the Rules. This is a motion used when the assembly wants to discuss an issue in a way that violates standing rules or rules of order. It may not interfere with the organizational bylaws and may not be made when a question is pending.

f) Division of a Question. When a motion contains several parts which may be individually debated, a motion may be divided.

g) Motion on Voting. A member may request the method of voting on a question, such as a ballot vote. A member may request a special voting method, such as the use of white and black balls.

h) Motions Relating to Nominations. This motion applies the periods of nomination in an assembly and how the assembly will specifically make its nominations for officers.

i) Consideration by Paragraph or Seriatim. A report or long motion can be broken up by opening the different parts to debate and amendment separately, without division of the question.

j) Division of the Assembly. This motion is used if a member doubts the accuracy of the result of a voice vote.

4) Privileged Motions (ranked)
Privileged motions do not relate to the business on the floor; rather, they have to do with special matters of pressing importance. The take precedence over all other motions, hence their name. They can interrupt any business without discussion or debate.

a.) Fixing the Time at Which to Adjourn.

b) Adjourning.

c) Recess. This allows for a short intermission. It acts as a privileged motion only if a main motion is pending. If no motion is pending, this motion is a main motion to recess.

d) Raise a Question of Privilege to Make an Urgent Request about a Person’s Rights. This motion allows a request or main motion to be brought up immediately because of its urgency, while doing so would normally be called out of order. Possibilities may involve a matter of confidentiality or problems with air conditioning or heat in a hall. There is no debate and no vote, as the chair rules on the matter.

e) Call for the Orders of the Day. This motion requires the order to be enforced if it is not being followed. The assembly may by a 2/3 vote set the orders of the day aside.

5) Restorative Motions (unranked)

Restorative motions are those that allow an assembly to change its mind on a matter.

These allow the assembly to bring up a question again.

a) Rescind. A motion to rescind is used to quash or nullify a previously adopted motion resolution, motion, bylaw, section or paragraph that has been adopted at some previous time. There is an explicit right of any member to make the motion, unlike a motion to take from the table.

b) Amend Something Previously Adopted.

c) Reconsider. This motion allows a group to reconsider the vote on a motion. It may only be made by someone who voted on the winning side of the motion; this is to help prevent abuse. There is also a time limit on any motion to reconsider, generally during the same or the next session.

d) Take from the Table. The motion must be made at the appropriate time in the order of business. It may only be made at the same or the next meeting.

e) Discharge a Committee. A motion to discharge a committee allows the assembly to take a matter out of the hands of a committee, before the committee has formulated a report, and allows the assembly itself to deal with the issue.

No motion involving substantially the same question can be considered by the assembly while the question is in the hands of a committee.

6) Dilatory Motions

A motion is considered dilatory if it seeks to obstruct the will of the assembly, as clearly indicated by the existing parliamentary situation. Any main or other motion that is absurd in substance is
dilatory and cannot be introduced. Examples include a member constantly raising points of order, repeatedly moving to lay motions on the table, or continually moving to adjourn.

7) Improper Motions

Motions that conflict with the organizational bylaws, with the U.S. Constitution, or with national, state or local law are considered out of order. Motions are out of order if they present nearly the same question as one that was previously decided at the same session, or that conflict with a motion that has been adopted by the assembly and has been neither rescinded, nor reconsidered and rejected, after adoption.

E. The Agenda and Rules of Conduct

1) Call for the Orders of the Day (aka “Enforce the Schedule”). If the agenda is not being followed, a member may call for the orders of the day.

2) Point of Order. When a member thinks the rules of the Council have been violated, he or she may make a point of order, thereby calling for the chair’s ruling to restore order.

3) Appeal. A member can appeal the chair’s ruling on an issue. A majority vote or tie sustains the chair’s ruling. The chair is allowed to vote on an appeal.

4) Raise a Question of Privilege to Make an Urgent Request about a Person’s Rights.

This allows a request or main motion to be brought up immediately because of its urgency. Doing so would typically be called out of order. There is no debate and no vote as the chair rules on the matter of privilege or not.

5) Request to Read Papers. This is a request that papers be read before the assembly, usually for the purpose of gaining more information.

6) Request for Parliamentary Inquiry. A member may request that the chair rule on a matter of parliamentary procedure.

7) Request to Suspend the Rules. This motion is used when the assembly wants to discuss an issue in a way that violates standing rules or rules of order. It may not interfere with the organizational bylaws and may not be used when a question is pending.

8) Request for Any Other Privilege. This request may only be granted by the membership.

An example is a member who wishes to make a presentation when there is no pending motion.

F. The Role of the Chair

The chair, whether it be the mayor, mayor pro tem, or chairperson, is obviously an important figure in the running of the meetings. A chair should act as a facilitator – being fair, compassionate and acting in an unbiased manner. The key to running a meeting using Robert’s Rules of Order is to effectively balance the formal needs of the assembly with its informal needs.

A chair who is unyielding will ultimately bring the criticism of the assembly. A chair who is too flexible will find that little to no business is accomplished.
1) Suggested Phrases for the Chair

a) Call to Order. "As there is a quorum, the meeting will come to order." (tap gavel once)

b) Minutes. "Are there any corrections to the minutes:" "The minutes stand as written [or corrected]."

c) Reports of Officers, Staff, Boards and Committees. "Does the [Department, Staff, etc.] have a report?" "Are there any questions?" "The report will be attached to the minutes of the meeting."

d) Discussion. "Two members have spoken in favor of the motion. Is there a member who wishes to speak against the motion?"

e) Irrelevant Discussion. "The member will confine his (or her) remarks to the pending question."

f) Voting. The chair states the question, then asks for a raise of hands, roll call vote or ballots.

g) Results of a vote. "The ayes have it. The motion is carried [or adopted]." "The noes have it. The motion is defeated [or lost]."

h) Nominations. "We have an order of business, being the nomination of a member of the [name of board or committee]. Nominations for this office are now in order."

i) Adjournment. "If there is no further business, and there is no objection, the meeting will be adjourned. [pause] There being no objection, the meeting is adjourned."

2) Tips for the Chair

a) Start the meeting on time.

b) Be prepared with information specific to the day's agenda. Adapt to the needs of the members.

c) Stick to the agenda. The agenda is composed to allow the effective treatment of business.

d) Remain neutral. Attempt to stay clear of direct discussion of issues and any indication of partiality. Likewise, if the chair only calls on members speaking in favor of or against a motion, the chair may appear to be partial. It's a good idea to ask for the opposite view and to generally alternate between pro and con positions in debate.

e) Stay focused, particularly when discussing political and controversial issues.

The chair should keep the members on topic and should help members maintain their focus.

f) Control the floor. Though a chair should be flexible and attentive to the needs of a body, a chair who lets discussions get out of control is not meeting the requirements of the
position. An effective chair will assure that business is conducted in a fair and efficient manner.

g) Don't be afraid to teach. A chair should help members out when there is a question about parliamentary procedure or another matter. A chair can expedite discussion. If a member makes a long speech and it seems to be a diatribe, the chair can ask the member if he or she would like to make a motion. The chair should also explain any decision that he or she makes. If a member is called out of order, or if an amendment is declared not to be germane, the chair should state the reasoning behind the parliamentary decision.

h) Let the members do the work. The most effective chair will facilitate, not dominate. In doing so, a chair must keep in mind the needs of the members. It is they who direct the course of action; a chair should only keep things running smoothly.

6. RULES OF PROCEDURE

Formal rules of procedure may be a comprehensive set of rules drafted by the governing body and formally adopted, or the governing body may adopt a standard work of parliamentary procedure such as Robert's Rules of Order Newly Revised. Where standard rules are adopted, the ordinance or resolution adopting the standard rules frequently modifies the standard rules to some extent.

Standing rules are those which are related to the details of the administration of a society, rather than to parliamentary procedure, and which can be adopted or changed upon the same conditions as any act of the society. Although rules remain in effect until rescinded or amended, they do not bind future sessions if a majority desires to suspend them temporarily for the duration of a particular session.

Some assemblies, particularly legislative bodies, also apply the term "standing rules" to their rules of order. Whatever name an assembly may apply to its various rules, the vote required to adopt, amend or suspend a particular rule is determined by the nature of its content, according to the rules of the assembly's parliamentary authority.

Standing rules are adopted, as any ordinary motion, by a majority vote, and are amended by a two-thirds vote without previous notice, or by a majority vote with such notice; they therefor can be suspended by a majority vote, as they do not involve the protection of a minority of a particular size. Through an incidental main motion adopted by a majority vote, a rule can be suspended for the duration of the current session.

7. STATUTORY REQUIREMENTS

Utah State law requires municipalities to adopt and publicize rules of order and procedure. That section of Utah Code follows.

Rules of order and procedure. (UCA 10-3-606)

A. As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

1) parliamentary order and procedure; (b) ethical behavior; and (c) civil discourse.

2) a) Subject to Subsection (2)(b), a municipal legislative body shall:
i) adopt rules of order and procedure to govern a public meeting of the legislative body;

ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a)(i); and

iii) make the rules of order and procedure described in Subsection (2)(a)(i) available to the public: (A) at each meeting of the municipal legislative body; and (B) on the municipality's public website, if available.

(b) Subsection (2)(a) does not affect a municipal legislative body's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Utah law often prescribes rules of procedure. Where a statute prescribes a rule, the statutory rule supersedes the governing body's rule. The following rules are prescribed by Utah state statute (statutory rules already covered in this chapter are not listed here):

A. The minimum number of yes votes required to pass any ordinance or resolution, or to take any action by the council, unless otherwise prescribe by law, is a majority of the voting members of the council [a quorum], without considering any vacancy in the council. (Utah Code 10-3-507)

B. Mayor's Role

1) In all municipalities, except those organized under the council-mayor form of government, the mayor shall be the chair and preside at the meetings of the governing body. In the absence of the mayor, or because of the mayor's inability or refusal to act, the governing body may elect one of its members 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. (Utah Code 10-3b-301 and 402)

2) In a municipality organized under the council-mayor form of government, the municipal council shall, by a majority vote of its members, select one of its number as chair. The mayor in this form of government shall attend council meetings, participate in discussions, and give advice to the council. (Utah Code 10-3b-202 and 203)

3) The mayor of any municipality, except those organized under the council-mayor form of government, shall have no power to veto any act of the governing body. The mayor in a council-mayor form of government may veto an ordinance, tax levy or appropriation passed by the council. (Utah Code 10-3b-204)

C. A majority of the members of the governing body, regardless of number, may fill any vacancy in the governing body. (Utah Code 10-3-507)

D. Final action on any report of any committee appointed by the governing body shall be deferred to the next regular meeting of the governing body on the request of any two members, except that the council in a city of the third, fourth or fifth class or a town may call a special meeting to consider final action. (Utah Code 10-3-609)

E. Any action taken by the governing body shall not be reconsidered or rescinded at any special meeting unless the number of members of the governing body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved. (Utah Code 10-3-508)
F. The governing body of each municipality may fine or expel any member for disorderly conduct on a two-thirds vote of the members of the governing body. *(Utah Code 10-3-607)*

G. The governing body, on a two-thirds vote, may expel any person who is disorderly during the meeting of the governing body. The section or any action taken by the governing body pursuant hereto shall not preclude prosecution under any other provision of law. *(Utah Code 10-3-608)*

**CHAPTER 6 – MUNICIPAL ELECTIONS**

1. **GETTING STARTED**

   A. Determine dates for primary and general elections for current year.

      1) Primary Election – held, if necessary, on the second Tuesday following the first Monday in August of each odd numbered year. *(UCA 20A-1-201.5)*

         a) If your municipality holds Partisan elections, a political convention will nominate their candidates and no primary will be held.

         b) If your municipality holds non-Partisan elections, a primary will be required if the number of candidates that have filed exceeds twice the number of positions to be filled. This will not be known until after the filing period.

      2) General Election – held the first Tuesday after the first Monday in November of each odd-numbered year. *(UCA 20A-1-202)*

         a) Reserve building to be used as polling place(s) for primary and general elections. (See Section 8 below for more information on polling places)

         b) Prepare information to be given to candidates when they file.

         c) Update calendar or check list as applicable to current election year. (See Exhibit A)

2. **WORK CLOSELY WITH YOUR COUNTY CLERK**

   Each County assists in municipal elections in different degrees. Contact your County Clerk to determine what functions the County will be responsible for and what will be your responsibility.

3. **TERMS OF OFFICE – UCA 10-3-205**

   A. In municipalities operating under a five-member or six-member city council form of government, the election and terms of office shall be:

      1) The offices of mayor and approximately half the council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

      2) The offices of the remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.
4. DECLARATION OF CANDIDACY – UCA 20A-9-203

To become a candidate for Mayor or Council citizens must fill out a Declaration of Candidacy form and have it notarized or signed by the city recorder (See Exhibit B) during the filing period of June 1-7 during regular business hours. (UCA 20A-9-203(2))

A. On or before February 1st, publish at least one notice in the paper announcing the place, times and qualifications for filing as a candidate and the filing fee, if any. It is recommended publishing this 2-3 times. (UCA 10-3-301) (See Exhibit C)

B. Those wishing to file must do so in person at the office of the city recorder.

C. Declarations cannot be accepted after 5:00 p.m. on June 7.

D. Upon receiving the declaration of candidacy, the city recorder shall:
   
1) read the qualification requirements for the office to the candidate and require the candidate to state whether or not they meet those requirements.

2) If the prospective candidate meets the requirements, the city recorder shall:

   a) Verify that the name written on the form is how they wish their name to appear on the ballot;

   b) Provide the candidate with a copy of the current campaign financial disclosure laws and inform them that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

   c) Provide the candidate with a copy of UCA 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform them of the submission deadline of 45 days before the primary election and 60 days before the general election.

   d) Provide the candidate with a copy of the Pledge of Fair Campaign Practices (see Exhibit D) and inform them that signing the pledge is voluntary.

   e) File signed pledges.

   f) If the number of candidates for a particular office exceeds twice the number of persons needed to fill the office, a primary election must be held. For example, if three or more file for a mayor position.

   g) A candidate may withdraw the nomination by filing a written affidavit with the recorder anytime up to 23 days before the election. (UCA 20A-9-203(12))

5. CAMPAIGN FINANCE STATEMENTS – UCA 10-3-208

A. Completed Campaign Finance Statements (See Exhibit D) are required by State Law. If candidates do not file the statements by the deadline in compliance with State Law, the recorder is required to remove the candidate's name from the ballot.

B. Provide two Campaign Financial Report Forms to each candidate at the time they file a Declaration of Candidacy.
C. Provide written instructions to candidate regarding when and how to file reports (See Exhibit E).

D. Have the candidate sign an acknowledgement that they have received the forms and instructions for campaign finance requirements (See Exhibit F).

1) The provisions of the statute or city ordinance 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 finance statement, including the statutory provision that requires removal of the candidate’s name from the ballot for failure to file the report by the deadline.

E. Fourteen days before the general election, the recorder is to provide written notification to each candidate of financial reporting requirements. It is not required, but recommended, that this be done by return receipt requested mail.

F. Deadlines for filing the financial statements are:

1) Each candidate who is not eliminated at the primary election shall file the report with the recorder by 5 p.m.:

   a) no later than seven days before the date of the municipal general election; and

   b) no later than 30 days after the date of the general election.

2) Each candidate who is eliminated at the primary election shall file the financial report with the recorder by 5 p.m.:

   a) no later than 30 days after the date of the primary election.

G. Upon receipt of the statements, the city recorder shall make each statement available for public inspection and copying no later than one business day after the statement is filed; and

H. Make each statement filed available for public inspection by:

1) Posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed and verifying that your city website address is provided to the lieutenant governor; or

2) Submit a copy of the statement to the Lt. Governor's Office for posting on the state website no later than two business days after the statement is filed.

I. If a candidate fails to file a campaign finance statement before the general election by the deadline, the recorder shall:

1) If practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
2) If removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

3) May not count any votes for that candidate.

J. A private party of interest may bring a civil action in district court to enforce the provisions of this section.
1) In a civil action the court may award costs and attorney's fees to the prevailing party.

6. PUBLICATION OF CANDIDATES

A. After the filing period, publish the candidates' names and offices in at least two successive issues of a newspaper immediately following the deadline and notify the Lt. Governor's office of the names of the candidates as they will appear on the ballot. (see Exhibit G)

1) Notify your county clerk to inform them whether you will be holding a primary.

2) Determine, with your county clerk, how many official register and posting books will be needed.

3) Verify that language on the ballot is in accordance with UCA 20A-6-301.

4) If using touch screen voting machines, provide a list of the candidates to the county clerk's office.

The list must be in the order identified in the “master ballot position list” (UCA 20A-6-305) established by the office of the Lt. Governor. Verify spelling of candidates' names.

5) If using paper or optical scan systems, mail, fax or e-mail a list of the candidates to a printing company to produce your ballots. The list must be in the order identified in the “master ballot position list” established by the office of the Lt. Governor and should include the office and term each candidate is running for, and the number to be elected to each office. Verify spelling of candidates' names.

7. SAMPLE BALLOTS – UCA 20A-5-405

A. When sample ballots are received from the printer, the recorder shall:

1) Verify that every name is spelled correctly and is in the order specified in the "master ballot position list;

2) Post a copy in the office at least seven days before commencement of voting;

3) Mail a copy to each candidate listed on the ballot;

4) Mail a copy to the Lt. Governor;

5) Publish a copy in the paper.

8. POLLING PLACES – UCA 20A-5-403

A. Once it has been determined where elections will be held, approval must be received from the council.

B. For each polling place the recorder must provide:
1) An American flag;

2) A sufficient number of voting booths or compartments;

3) The voting devices, voting booths, ballots, ballot boxes, ballot labels, ballot sheets, write-in ballots, and any other records and supplies necessary to enable a voter to vote (work with your county clerk on these items)

4) A constitutional amendment card, voter information pamphlets, and voter instruction cards.

5) A sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter and listing the acceptable forms of identification.

C. Ensure that each voting booth is at a convenient height for writing and arranged so the voter can prepare their ballot in privacy.

D. Ensure that there are a sufficient number of voting booths or voting devices to accommodate the voters at the polling place.

E. There must be at least one device that is configured to accommodate persons with disabilities.

F. Polling place prohibited activities: UCA 20A-3-501

1) A person may not, within a polling place or in any public area within 150 feet of the building where a polling place is located:
   
   a) Do any electioneering;

   b) Circulate cards or handbills of any kind;

   c) Solicit signatures to any kind of petition; or

   d) Engage in any practice that interferes with the freedom of voters to vote or disrupts the administration of the polling place.

2) A person may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

3) A person may not:

   a) Remove any ballot from the polling place before the closing of the polls;

   b) Solicit any voter to show his ballot.

4) A person may not receive a voted ballot from any voter or deliver an unused ballot to a voter unless that person is a poll worker.

5) A political subdivision may not prohibit political signs that are located more than 150’ away from a polling place, but may regulate their placement through local ordinance.
9. POLL WORKERS - UCA 20A-5-602

A. It is the city recorder’s responsibility to provide poll workers. This should be done at least 15 days before the primary and/or general election.

B. A good source for poll workers is your county clerk’s list of poll workers that they have used in their elections.

C. It is required that the city recorder keep a list of the poll workers containing their name, address, voting precinct, and telephone number. (See Exhibit H)

1) This is also a good reference when reappointing poll workers year after year.

2) This list must be made available for inspection, examination and copying during business hours.

D. When the appropriate number of poll workers has been assigned, the city council must approve the appointment of the poll workers at least 15 days before the date of the election.

E. If your jurisdiction uses paper ballots:

1) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as poll workers for each voting precinct when the ballots will be counted after the polls close; or

2) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as receiving judges in each voting precinct and three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as counting judges in each voting precinct when ballots will be counted throughout election day;

F. In jurisdictions using automated tabulating equipment, three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as poll workers for each voting precinct;

G. If your municipality uses voting machines, four registered voters, or three registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as poll workers for each voting precinct; and

1) it is also helpful to have roving judges to assist voters on the machines, if needed.

H. In all jurisdictions:

1) at least one registered voter from their jurisdiction to serve as canvassing judge, if necessary; and

2) as many alternate poll workers as needed to replace appointed poll workers who are unable to serve.

I. The city council may not appoint any candidate’s parent, sibling, spouse, child, or in-law to serve as a poll worker in the voting precinct where the candidate resides.
J. Upon approval of the poll workers, each poll worker should be mailed an "Acceptance of Appointment and Oath" that must be returned to the recorder.

K. The city can compensate poll workers for their services. This can be set at any amount but cannot be higher than what the county pays their poll workers. This amount should be approved by the city council along with the list of poll workers.

1) Alternate poll workers may also receive compensation.

L. Poll Worker training should be provided approximately one week prior to the election. Training can be completed by the municipality, the county or your local Recorder's Association.

1) Poll Workers may be paid to attend training at the discretion of the municipality to encourage attendance.

10. LOCAL INITIATIVES – UCA 20A-7-402 – UCA 20A-7-501

A. A person wishing to have an initiative submitted to the council or to a vote of the people shall obtain legal signatures as explained in UCA 20A-7-501.

B. If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by State Code, the clerk or recorder shall deliver the proposed law to the city council at its next meeting.

C. The city council shall either adopt or reject the proposed law without change or amendment within 30 days of receipt of the proposed law.

1) The city council may:
   a) adopt the proposed law and refer it to the people;
   b) adopt the proposed law without referring it to the people; or iii. reject the proposed law.

D. If the city council adopts the proposed law but does not refer it to the people, it is subject to referendum as with other local laws.

E. If the city council rejects a proposed municipal ordinance or amendment, or takes no action on it, the recorder or clerk shall submit it to the voters of the municipality at the next municipal general election.

F. If the city council rejects the proposed ordinance or amendment, or takes no action on it, the city council may adopt a competing local law.

1) The city council shall prepare and adopt the competing local law within the 30 days allowed for its action on the measure proposed by initiative petition.

G. If the city council adopts a competing local law, the clerk or recorder shall submit it to the voters of the municipality at the same election at which the initiative proposal is submitted.

H. If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, then the measure that receives the greatest number of affirmative votes shall control all conflicts.
I. Persons wishing to circulate an initiative petition shall file an application with the local clerk.

   1) The application shall follow the guidelines set in UCA 20A-7-502.

J. Within three working days of receipt of an application for an initiative petition, the local clerk shall submit a copy of the application to the budget officer.

K. Each proposed initiative petition shall be printed as outlined in UCA 20A-7-503.

L. In order to obtain the necessary number of signatures required, the sponsors shall circulate initiative packets that meet the form requirements as defined in UCA 20A-7-504:

   1) The local clerk shall furnish to the sponsors:

      a) one copy of the initiative petition; and

      b) one signature sheet.

   2) The sponsors of the petition shall:

      a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

      b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

M. After the sponsors have prepared sufficient initiative packets, they shall return them to local clerk. The local clerk shall:

   1) number each of the initiative packets and return them to the sponsors within five working days; and

   2) keep a record of the numbers assigned to each packet.

N. Submitting the initiative petition: UCA 20A-7-506

   1) The sponsors shall deliver each signed and verified initiative packet to the county clerk no later than the April 15 falling before the municipal general election.

   2) The county clerk will check the names of the persons to verify that they are a Utah resident and at least 18 years old.

   3) No later than May 15, the county clerk shall deliver all of the packets to the local clerk.

   4) Upon receipt of the initiative packet, the local clerk shall:

      a) check off the number of each initiative packet filed;

      b) count the number of the names certified by the county clerk that appear on each verified signature sheet.
c) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by UCA 20A-7-501, the local clerk shall mark upon the front of the petition the word "sufficient."

d) If the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by UCA 20A-7-501, the local clerk shall mark upon the front of the petition the word "insufficient."

e) The local clerk shall immediately notify any one of the sponsors of their finding.

f) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the initiative petition in the presence of any sponsor.

O. Once a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the pending election.

P. If the petition is declared insufficient, the petition sponsors may submit additional signatures to qualify the petition for:

1) the next regular general election following the pending regular general election if the petition was a county initiative petition; or

2) the next municipal general election if the petition was a municipal initiative petition.

Q. When initiative petition is declared sufficient for submission to a vote of the people, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney. (UCA 20A-7-507)

R. The local attorney shall return the petition and file the ballot title with the local clerk within five days.

S. Immediately after the local attorney files a copy of the ballot title with the local clerk, the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the city council.

T. The local clerk shall ensure that the number and ballot title are printed upon the official ballot with, immediately to the right of them, the words "For" and "Against," each word followed by a square in which the elector may indicate his vote. (UCA 20A-7-509)

U. The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

V. The city council shall immediately issue a proclamation that: UCA 20A-7-510

1) gives the total number of votes cast in the local jurisdiction for and against each law proposed by an initiative petition; and

2) declares those laws proposed by an initiative petition that were approved by majority vote to be in full force and effect as the law of the local jurisdiction.

W. When the city council determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, they shall proclaim that measure to
be law that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

X. Within ten days after the city council's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the city council body to be superseded by another measure approved at the same election may apply to the supreme court to review the decision.

Y. Any proposed law submitted to the people by initiative petition that is approved by the voters at any election takes effect on the date specified in the initiative petition. (UCA 20A-7-511)

Z. If the initiative petition does not specify an effective date, a law approved by the voters at any election takes effect five days after the date of the official proclamation of the vote by the county legislative body.

11. EARLY VOTING – UCA 20A-3-601 – UCA 20A-3-604

A. Two weeks preceding each election voters may vote early.

1) Early voting shall continue through the Friday before the election.

2) The recorder can determine the times for opening and closing the polls for each day of early voting, provided that:

a) Early voting must be available a minimum of four hours during each day that the polls are open during early voting.

b) Early voting must be conducted on the last day of the early voting period.

c) Early voting shall not close until 5 p.m. on the last day of the early voting period.

3) Every registered voter who arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

B. Notice of time and place of early voting:

1) Early voting shall take place in a government building or office, unless it is determined that the area designated does not meet the requirements of UCA 20A-3-603.

2) Publish a notice in at least one issue of a newspaper of general circulation in the county at least five calendar days before the date early voting begins; and

3) Post a notice at each early voting polling place at least five calendar days before early voting begins.

C. Manner of voting.

1) Early voting is conducted in the same manner as your regular voting. Municipalities can use paper ballots, optical scan, or touch screen.

2) Each voter must present valid voter identification to the poll worker. "Valid voter identification" includes any of the following: UCA 20A-1-102(82)
a) Current valid Utah driver license;

b) Current valid identification card that is issued by the state or a branch, department or agency of the United States;

c) A current valid Utah permit to carry a concealed weapon;

d) A current valid United States passport; or

e) A currently valid United States military identification card;

f) One of the following identification cards, whether or not the card contains a photograph of the voter:
   • a valid tribal identification card;
   • a Bureau of Indian Affairs card; or
   • a tribal treaty card; or

g) Two forms of identification that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:
   i) A current utility bill or a legible copy dated within 90 days before the election;
   ii) A bank or other financial account statement or legible copy;
   iii) A certified birth certificate;
   iv) A valid Social Security card;
   v) A check issued by the state or the federal government or a legible copy;
   vi) A paycheck from the voter's employer or legible copy;
   vii) A currently valid Utah hunting or fishing license;
   viii) A currently valid United States military identification card;
   ix) Certified naturalization documentation;
   x) A currently valid license issued by an authorized agency of the United States;
   xi) A certified copy of court records showing the voter's adoption or name change;
   xii) A valid Medicaid card, Medicare card or Electronic Benefits Transfer Card;
   xiii) A currently valid identification card issued by a local government within the state, an employer for an employee or a college, university, technical school or professional school located within the state;
   xiv) A current Utah vehicle registration.

3) The poll worker shall record the type of identification provided in the appropriate space in the official register.
4) If voter identification cannot be produced, a provisional ballot may be cast. The voter then has five (5) days to show identification to the county clerk in order for the provisional ballot to be accepted.

12. **PROVISIONAL BALLOTS** – [UCA 20A-4-107](#)

A. Starting with the 2009 election, all voters must show valid I.D. As a result, it is expected that more provisional ballots will be needed that in past elections. It is recommended this be considered when ordering provisional ballots.

B. Check with your county clerk to determine who will verify Provisional Ballots, the county or you as the elections officer.

C. On Election Day or during early voting, if a poll worker challenges the person's right to vote, the person's name is not found on the official register or the voter has not provided valid voter identification, the voter can fill out a Provisional Ballot.

D. Upon receipt of provisional ballot envelopes, the election officer (whether county or city) shall review the affirmation on the face of each envelope and determine if the person signing the affirmation is a registered voter and legally entitled to vote the ballot. ([UCA 20A-4-107(2)](#))

1) If it is determined that the person is not a registered voter or is not legally entitled to vote the ballot, the election officer shall retain the ballot envelope, unopened, for the period specified in [UCA 20A-4-202](#) unless ordered by a court to produce or count it.

2) If it is determined that the person is a registered voter and is legally entitled to vote, the election officer shall remove the ballot from the envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

3) The vote may not be counted unless the voter's ID and residence is established by a preponderance of the evidence.

E. If it is determined that the person is a registered voter, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

F. If the election officer determines that the person is not a registered voter and the information on the provisional ballot envelope is complete, the election officer shall consider the provisional ballot envelope a voter registration form and register the voter.

13. **ABSENTEE VOTING** – [UCA 20A-3-301 – 310](#)

A. The recorder must determine how many absentee ballots to have printed. These are generally ordered through a printing company that is familiar with the requirements of the law.

B. Any person who is registered to vote may vote by absentee ballot.

C. A registered voter may not vote in person if the voter voted by absentee ballot.

D. Notwithstanding [UCA 17B-1-306](#), an election officer may administer an election entirely by absentee ballot as specified in [UCA 20A-3-302(2)](#).

E. Any registered voter who wishes to vote an absentee ballot can either: ([UCA 20A-3-304](#)
1. File an absentee ballot application on the electronic system maintained by the lieutenant governor under UCA 20A-2-206; or

2. With the appropriate election officer for an official absentee ballot; or

3. Vote in person at the office of the appropriate election officer.

F. If requested by the applicant, the recorder:

1) Mails or faxes the application blank to the absentee voter; or

2) Delivers the application blank to the voter who personally applied for it at the office of the city recorder.

G. A voter who wishes to vote by absentee ballot shall file the application with the lieutenant governor or appropriate election officer no later than the Thursday before election day. (UCA 20A-3-304(5))

An application for a military-overseas ballot is timely if received by the Thursday immediately before the day of election. (UCA 20A-16-402)

H. Those voting absentee at the office of the city recorder must cast their ballot no later than the Thursday before the election. (UCA 20A-3-306)

I. Upon timely receipt of an absentee voter application, the recorder shall either:

1) Give the applicant an official absentee ballot and envelope to vote in the office; or

2) Mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in UCA 20A-3-305(2).

J. An absentee ballot is not valid unless it is:

1) Received at the office of the recorder before the closing of polls on election day; or

2) Clearly postmarked before election day and received in the office of the recorder before noon on the day of the official canvass following the election.

K. A hospitalized voter may obtain an absentee ballot and vote on election day:

1) Any person may obtain an absentee ballot application, an absentee ballot and an absentee ballot envelope from the city recorder on behalf of a hospitalized voter by requesting a ballot and application in person at the recorder’s office;

2) The recorder must require the person to sign a statement identifying himself and the hospitalized voter.

3) To be counted, the absentee voter application and the sealed absentee ballot envelope must be returned to the recorder’s office before the polls close on election day.

14. CONDUCT ENTIRE ELECTION BY ABSENTEE BALLOT – UCA 20A-3-302

A. Notwithstanding UCA 17B-1-306, an election officer may administer an election entirely by absentee ballot.
B. If the election officer decides to administer an election entirely by absentee ballot, the election officer shall mail to each registered voter within that voting precinct:

1) an absentee ballot;

2) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

3) a courtesy reply mail envelope;

4) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter’s vote to be counted; and

5) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election.

C. A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

D. An election officer who administers an election entirely by absentee ballot shall:

1) a) obtain, in person, the signatures of each voter within that voting precinct before the election; or

   b) obtain the signature of each voter within the voting precinct from the county clerk; and

   c) maintain the signatures on file in the election officer’s office.

E. 1) Upon receiving the returned absentee ballots, the election officer shall compare signature on each absentee ballot with the voter’s signature that is maintained on file and verify that the signatures are the same.

2) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

3) If the election official determines that the signature on the absentee ballot does not match the voter’s signature that is maintained on file, the election officer shall:

   a) unless the absentee ballot application deadline UCA 20A-3-304 has passed immediately send another absentee ballot and other voting materials as required by this section to the voter; and

   b) disqualify the initial absentee ballot.

F. A county that administers an election entirely by absentee ballot:

1) shall provide at least one election day voting center in accordance with UCA 20A-3-7, Election Day Voting Center;
2) shall ensure that an election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities; and

3) is not required to pay return postage for an absentee ballot.

15. PUBLISHING NOTICE OF ELECTION

A. At least two days before election day, publish an election notice in a newspaper of general circulation. (UCA 20A-5-101) The notice must include:

1) The date and place of election;
2) The hours during which the polls will be open;
3) The polling places for each voting precinct; and
4) An election day voting center designated under UCA 20A-3-702; and
5) The qualifications for persons to vote in the election.

It is also helpful to publish a city map showing the precincts.

16. PRIMARY AND GENERAL ELECTION DAY

A. If your municipality is providing lunch or other snacks for election day, order a few days ahead.

B. Polls open at 7:00 a.m. and close at 8:00 p.m.

C. Deliver absent-voter ballots to the respective poll workers.

D. Be available at the polling place or by phone throughout the day for any questions that may come up.

E. Poll workers will deliver the election returns to the city clerk or county clerk, depending on which jurisdiction has the responsibility to do the counting.

F. No electioneering is allowed within 150 feet of the polling place building. (UCA 20A-3-501)

17. CANVASSING OF VOTES AND NOTICING – UCA 20A-4-301 – 304

A. Canvassing of votes is the review of election returns and the official declaration of election results by the board of canvassers (city council). There is no set format for this, each city can determine what works best for them. However, the canvass must include the votes of each voting precinct for:

1) each candidate voted for; and
2) for and against each ballot proposition voted upon at the election.

B. Canvassing can be done during a regular council meeting if it is within the required time frame, or a special meeting may be needed to meet the time requirement.
C. If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, they shall transmit the election returns to the election judges for correction.

D. Primary election results must be canvassed no sooner than seven days and no later than 14 days after the election.

E. General election results must be canvassed no sooner than seven days and no later than 14 days after the election.

F. Immediately following the canvass, the recorder shall prepare a certificate of nomination under the city seal to each nominated candidate.

G. After the primary election canvass, the recorder shall notify the printing service contracted by the city of the names for the November election. If the city is doing touch screen voting the names should be provided to the county or the IT person programming the machines.

H. After the canvass of each election, the city recorder shall; (UCA 20A-4-304)

1) Record the canvass in the official records of the municipality;

2) Prepare and transmit a certificate of nomination or election to each nominated or elected candidate;

3) Publish the official results in a newspaper, or if there is not a newspaper published in the municipality, the results should be posted;

4) Give a copy of the certified report to each nominated or elected candidate;

5) File a copy of the certified report with the office of the Lieutenant Governor within 14 days;

6) Publish on the municipality's website;

7) Send to the state’s election website; and

8) Post in one or more conspicuous places within the jurisdiction.

18. RECOUNTS — UCA 20A-4-401

A. For any election, when any candidate loses by not more than a total of one vote per voting precinct, the candidate may file a request for a recount within seven days after the canvass.

B. The recorder shall:

1) Supervise the recount;

2) Recount all ballots cast for that office;

3) Reexamine all unopened absentee ballots to ensure compliance with UCA 20A Chapter 3, Part 3, Absentee Voting; and

4) Declare elected the person receiving the highest number of votes on the recount.
C. Any ten voters who voted in an election when any ballot proposition or bond proposition was on the ballot may file a request for a recount with the recorder within seven days of the canvass.

D. The recorder shall follow the same guidelines listed in B(a-d) above.

E. Costs incurred by a recount may not be assessed against the person requesting the recount.

F. Upon completion of the recount, the recorder shall immediately convene the city council. They shall:

1) Canvass the election returns for the race or proposition that was the subject of the recount; and

2) With the assistance of the recorder, prepare and sign the report.

19. TIE VOTES – UCA 20A-1-304

A. If two or more candidates have an equal and the highest number of votes for any office, the recorder shall determine by lot which candidate is selected in a public meeting in the presence of each subject to the tie within 30 days of the canvass or within 30 days of the recount if one is requested or held.

B. In a primary, if two or more candidates for a position have an equal and the highest number of votes for any office, the recorder shall determine by lot which candidate is selected in a public meeting in the presence of each person subject to the tie within five days of the canvass or within five days of the recount if one is requested or held.

20. OATHS OF OFFICE – UCA 10-3-201 & UCA 10-3-828

A. Newly elected officials begin their term of office at 12 o'clock noon on the first Monday in January following the election or as soon thereafter as practical. The oath of office is to be administered by a judge, notary public or by the recorder of the municipality.

B. Some municipalities administer the oath as part of the first city council meeting, others have a light luncheon or snacks at 12 o'clock noon on the first Monday in January. Newly elected official should be encouraged to invite family and friends to the oath of office ceremony. (see Exhibit I)

21. MID-TERM VACANCIES – UCA 20A-1-510

A. When a vacancy occurs in the office of mayor or council, the mayor and city council appoint a registered voter in the municipality who meets the qualifications for office established in UCA 10-3-301 to fill the unexpired term of the office vacated until the January following the next municipal election.

B. Before acting to fill the vacancy, give public notice of the vacancy at least two weeks before the council meeting in which the vacancy will be filled. (See Exhibit J)

C. The public notice should identify:

1) the date, time, and place of the meeting where the vacancy will be filled; and

2) the person to whom a person interested in being appointed to fill the vacancy may submit the interested person's name for consideration and any deadline for submitting it.
3) It is also helpful to ask for information on the candidate, such as why they would like the position and qualifications for the position.

D. Interviews are then held and an applicant chosen.

E. Interviews must be conducted in a noticed, open and public meeting.

F. If a vacancy in the office of mayor occurs before the effective date of an appointment to fill the vacancy, the council chair shall serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

1) While serving as acting mayor, the council chair continues to:
   a) act as a council member; and
   b) vote at council meetings.

CHAPTER 7 – ANNEXATION

1. DEFINITION – UCA 10-2-401

Petition by owners of certain real property requesting that such property be annexed to the corporate boundaries of a municipality. Petitioners must comply with all of the requirements specified in UCA 10-2-401 through UCA 10-2-426, as necessary.

2. PURPOSE

To incorporate (territory) into an existing or more significant municipality, county, or state.

3. OTHER DEFINITIONS – UCA 10-2-401

A. Affected Entity

1) A county of the first or second class in whose unincorporated area the area proposed for annexation is located.

2) A county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development.

3) A local district under Title 17B, Limited Purpose Local Government Entities – Local Districts, or special service district under Title 17D, Chapter 1 Special Service District Act, whose boundary includes any part of an area proposed for annexation.

4) A school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation.

5) A municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

B. Expansion Area: the unincorporated area that is identified in an annexation policy plan as the area that the municipality anticipates annexing in the future.

C. Specified County: a county of the second, third, fourth, fifth, or sixth class.
D. Urban Development

1) A housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

2) A commercial or industrial development for which cost projections exceed $750,000 for all phases.

4. THE ANNEXATION POLICY PLAN – UCA 10-2-401.5

After December 31, 2002, a municipality must have an adopted Annexation Policy Plan before annexing any area. The policy plan will help guide decision making regarding future annexations and help plan for future expansion of services in conjunction with neighboring political entities.

A. What must be included in the Annexation Policy Plan:

1) A map of the "expansion area" which may include territory located outside the county in which the municipality is located;

2) A statement of the specific criteria that will guide the municipality's decision whether or not to approve future annexation petitions, addressing matters relevant to those criteria including:
   a) The character of the community;
   b) The need for municipal services in developed and undeveloped unincorporated areas;
   c) The municipality's plans for extension of municipal services;
   d) How the services will be financed;
   e) An estimate of the tax consequences to residents both currently within the municipal boundaries and in the "expansion area";
   f) The interests of all "affected entities";

3) Justification for excluding from the "expansion area" any area containing urban development within one-half mile of the municipality's boundary; and

4) A statement addressing any comments made by "affected entities" at or within ten days after the public meeting that is held by the planning commission to receive input from "affected entities" as stated in the law.

B. What the planning commission and the municipal legislative body must do while developing, considering, and adopting an annexation policy plan:

1) Attempt to avoid gaps between or overlaps within the expansion areas of other municipalities;

2) Consider population growth projections for the municipality and adjoining areas for the next 20 years;

3) Consider current and projected costs of infrastructure, urban services, and public facilities necessary to:
a) Facilitate full development of the area with the municipality; and
b) Expand the infrastructure, services, and facilities into the area being considered for inclusion in the "expansion area";

4) Consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;

5) Consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and

6) Be guided by the following principles regarding each proposed annexation:

If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

a) Along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

b) To eliminate islands and peninsulas of territory that are not receiving municipal-type services;

c) To facilitate the consolidation of overlapping functions of local government;

d) To promote the efficient delivery of services; and

e) To encourage the equitable distribution of community resources and obligations.

C. Urban development within a municipality's expansion area:

After the Annexation Policy Plan is adopted, and a copy has been sent to the county legislative body, the county cannot approve urban development within a municipality's expansion area unless:

1) The county notifies the municipality of the proposed development and the municipality consents in writing to the development; or

2) The county notifies the municipality and, within 90 days of receiving notification, the municipality submits to the county a written objection to the county's approval of the proposed development, and the county responds in writing to the municipality's objections.

D. Process for adopting the Annexation Policy Plan:

1) Planning commission holds a Public Meeting. This meeting is held to allow "affected entities" to examine the proposed annexation policy plan and to provide input on it.

a) Planning commission must provide notice to each "affected entity" at least 14 days before the public meeting

b) Planning commission must accept and consider any additional written comments from "affected entities" until 10 days after the public meeting.
c) Planning commission may make any modifications to the proposed annexation policy plan that it considers appropriate based on input received from the public meeting and during the 10-day period after the meeting.

2) Planning Commission holds a Public Hearing.

a) Planning commission must provide reasonable notice of the hearing to the public and each "affected entity" at least 14 days before the public hearing.

b) After the public hearing, the planning commission may make any modifications to the proposed annexation policy plan that it considers appropriate based upon input received from the public hearing, and then submit its recommended annexation policy plan to the municipal legislative body.

3) Municipal Legislative Body holds a Public Hearing.

a) The Municipal Legislative Body must provide reasonable notice of the hearing to the public and each "affected entity" at least 14 days before the public hearing.

b) After the public hearing, the Municipal Legislative Body may make any modifications to the proposed annexation policy plan that it considers appropriate based upon input received from the public hearing, and then adopt the recommended annexation policy plan with or without modifications.

c) Municipal Legislative Body must send a copy of the plan to the county legislative body within 30 days after adopting the annexation policy plan.

5. THE ANNEXATION PETITION – UCA 10-2-403

Petition signed by private property owners representing the majority of land area and at least 1/3 of the appraised value will be filed with recorder/clerk. If private land area proposed for annexation is within an Agriculture Protection area created under Title 14 Chapter 14, Agriculture Protection Area, the signatures of 100% of the land owners is required. Fees will be paid by property owner.

RECOMMENDATION: THERE SHOULD BE A FEE ASSESSED UP FRONT. THIS FEE IS TO BE DETERMINED BY INDIVIDUAL MUNICIPALITY. THERE WILL BE CONSIDERABLE EXPENSE ASSOCIATED WITH AN ANNEXATION AS A RESULT OF STATE REQUIRED PUBLICATION AND MAILING FEES. IT IS EASIER TO COLLECT AT THE BEGINNING OF THE PROCEDURE RATHER THAN TRY TO COLLECT IT AFTER-THE-FACT.

Designation of up to five (5) signers of the petition as sponsors and one designated as contact sponsor with the mailing address of each.

Petition will be accompanied by an accurate plat map prepared by a licensed surveyor of the area proposed for annexation.

The petition may not contain areas that are a part of another pending annexation or under a feasibility study for incorporation.

If practical and feasible, the annexation should be drawn along boundaries of special districts, school districts, and other taxing entities.
On the date of filing the annexation petition with recorder/clerk, the petitioner should deliver or mail a copy of the petition and map to the county clerk and if applicable a copy to the chair of the township planning commission and the legislative body of the county.

SUGGESTION: IF THE MUNICIPALITY WISHES TO INVOLVE THEIR PLANNING COMMISSION IN THE ANNEXATION PROCESS, THIS INVOLVEMENT SHOULD TAKE PLACE AT THE FRONT END - AFTER PETITIONS ARE FILED BUT BEFORE THE MUNICIPAL LEGISLATIVE BODY VOTES TO ACCEPT OR REJECT THE PETITIONS. INVOLVEMENT OF THE PLANNING COMMISSION IS NOT REQUIRED BY STATE LAW.

6. ACCEPTANCE OR REJECTION OF AN ANNEXATION PETITION - MODIFIED PETITION – UCA 10-2-405

After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township. (UCA 10-2a-405)

The municipal legislative body may accept or deny a petition. Failure of the municipal legislative body to act to deny or accept a petition under Subsection (1)(a)(i)(A) within 14 days after the filing of the petition or at the next city council meeting shall be considered to be acceptance of the petition.

A. If Denied: City/Town Legislative Body shall within 5 days after of the denial, mail written notice to the contact sponsor, and county clerk in which the area proposed for annexation is located,

B. If Accepted for further consideration: The city recorder/town clerk shall within 30 days of acceptance determine with assistance of the municipal attorney, assessor, county clerk, surveyor, and recorder of the county, whether the petition meets the requirements of (UCA 10-2-403) sections 3, 4, and 5.

RECOMMENDATIONS:

1) WHEN AN ANNEXATION PETITION IS ACCEPTED BY A CITY COUNCIL/TOWN BOARD, A RESOLUTION SHOULD BE PASSED TO SHOW ACCEPTANCE.

2) OBTAIN A WRITTEN STATEMENT FROM THE COUNTY CONCERNING THE FINDING OF THEIR REVIEW OF THE PETITION.

C. If Petition is certified as valid by city recorder/town clerk: Proceed to 7, Notice of Certification – Publishing and Providing Notice of Petition.

D. If Petition is Rejected - NOT CERTIFIED by city recorder/town clerk: Notification of the rejection and the reason for rejection is to be provided to the municipal legislative body, the contact sponsor, and the county legislative body.

E. Modification: Petition may be modified to correct the deficiencies and then filed again with the clerk/recorder. NO TIME LINE.

    Revised petition is then reviewed by city/town and county officials as a newly submitted petition for certification.

7. NOTICE OF CERTIFICATION - PUBLISHING AND PROVIDING NOTICE OF PETITION – UCA 10-2-406

After receipt of the notice of certification, the municipal legislative body shall:
Publish notice at least once a week for three (3) successive weeks - beginning no later than ten days after receipt of the notice of certification in a newspaper of general circulation within the area proposed for annexation and the unincorporated area within one-half mile of the area proposed for annexation; or if there is no newspaper of general circulation within those areas, post written notices in conspicuous places within those areas that are most likely to give notice to residents; and within 20 days of receipt of the notice of certification, mail written notice to the county legislative body, the board of each service district, independent special districts whose boundaries include part or all of the area proposed for annexation, the legislative body of each municipality whose boundaries are within one-half mile of the area proposed for annexation; and each school district whose boundaries include part of all the area proposed for annexation.

The notice shall include the following:

That a petition has been filed proposing annexation of an area to the municipality.

The date of the municipal legislative body's receipt of notice of certification.

A description of the area proposed for annexation and a statement indicating the petition is available for inspection and copying at the office of the city recorder or town clerk.

A statement indicating the municipality may approve the petition and annex the area described in the petition unless a written protest to the annexation petition is filed with the boundary commission (if created) or county clerk and a copy of the protest is delivered to the city recorder or town clerk of the proposed annexing municipality. The notice should include the address of the boundary commission or county clerk.

A statement indicating the deadline for filing the written protest which is to include the actual deadline date. The deadline for filing the protest is 30 days after the municipal legislative body's receipt of the notice of certification.

For a proposed annexation of an area within a county of the first class, state that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

Is located in the unincorporated area within one-half mile of the area proposed for annexation;

Covers at least 25% of the private land area in the unincorporated area within one-half mile of the area proposed for annexation, and

Is equal to at least 15% of all real property located in the unincorporated area within one-half mile of the area proposed for annexation.

NOTE: CERTIFICATION OF A PETITION IS BASED ON THE RESPONSES TO UCA 10-2-403(3), (4), AND (5).

8. PROTEST TO ANNEXATION PETITION – REQUIREMENTS – DISPOSITION IF NO PROTEST – UCA 10-2-407

A. A protest of an annexation petition may be filed by:

1) The legislative body or governing board of an affected entity

2) The owner of rural real property as defined in UCA 17B-2a-1107; or
For a proposed annexation of an area within a county of the first class, the owners of private real property that:

a) Is located in the unincorporated area within 1/2 mile of an area proposed for annexation

b) Covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

B. Each Protest Should:

1) Be filed by a legislative or governing body of an "affected entity."

2) Be filed within the appropriate time period (30 days after the municipal legislative body’s receipt of the notice of certification).

3) Be filed with boundary commission or the county clerk if the boundary commission has not yet been created.

4) State each reason for the protest of the annexation petition and must include justification for the protest under the standards of the annexation statute.

5) Must contain other information that the commission by rule requires or that the party filing the protest considers pertinent.

6) Contains the name and address of a contact person who is to receive notices from the boundary commission with respect to the protest proceedings.

7) A copy of the protest shall on the same date be mailed or delivered to the recorder/clerk of the proposed annexing municipality. (Each Clerk who receives a protest shall immediately notify the county legislative body of the protest and deliver the protest to the boundary commission within five days of its creation.)

C. Protest Period:

1) The protest period is 30 days after the municipal legislative body’s receipt of the notice of certification.

D. If a protest is filed, the municipal legislative body may at the next regular meeting after expiration of the deadline:

1) Deny the annexation petition; or

2) Take no further action on the petition until after receipt of the commission’s notice of its decision on the protest (See 9A below).

E. Disposition if no timely protest is filed:

The municipal legislative body may approve the petition.
Before approving an annexation, the municipal legislative body shall hold a public hearing. At least seven days prior to the public hearing, publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation, or post written notice in conspicuous places within the areas that are most likely to give notice to resident within the area.

The municipal legislative body may then approve the petition and annex the area through original documents required by the particular “boundary action” being made (generally by the entities ordinance).

(After annexation is approved proceed to 9C below)

9. DENIAL OF OR APPROVING THE ANNEXATION PETITION – FILING OF PLAT OR MAP – [UCA 10-2-408]

A. Denial of: After receipt of the commission's decision on a protest, a municipal legislative body may deny the annexation petition.

The municipal legislative body shall, within five days after the denial, send notice of the denial in writing to the contact sponsor of the annexation petition, the boundary commission, each entity that filed a protest, and the sponsor of any protest filed by land owners. If any of the area proposed for annexation is within a township, the notice should be sent to the legislative body of the county in which the township is located.

B. Granting of approved protested annexation: If the commission approves a protested annexation, the municipal legislative body may approve the annexation petition and by ordinance annex the area that is the subject of the petition.

The legislative body shall exclude rural real property, unless the owner of the rural real property gives written consent to include the property.

RECOMMENDATION: THE LAW DOES NOT STATE THAT A SECOND PUBLIC HEARING NEEDS TO BE HELD IF ONE HAS BEEN HELD BY THE COUNTY. YOU MAY WANT TO CONSIDER A SECOND PUBLIC HEARING.

C. After approval of annexation: ([UCA 10-2-425])

NOTE: 2009 CHANGES IN STATE LAW MAKE THIS FINAL STEP EXTREMELY IMPORTANT, AS THE ENTITY MAY NOT COLLECT REVENUE FROM THE AFFECTED AREA UNTIL IT IS RECORDED; THE DATE OF RECORDING IS THE EFFECTIVE DATE RELATING TO THE COLLECTION OF REVENUE.

1) Within 30 days after enacting the ordinance annexing an unincorporated area the municipal legislative body shall file with the Lieutenant Governor:

   a) Original notice of impending boundary action (i.e. Amended Articles of Incorporation)

   b) Copy of local entity plat map. This will not be a recorded plat map, but must have been reviewed and approved by County Surveyor.

   c) Other original documents required by the particular "boundary action" being made. (i.e. Ordinance)

2) Upon the issuance of the Lieutenant Governor's certificate of annexation or boundary adjustment the city recorder shall submit to the recorder of that county:

   a) An original boundary action, as returned by Lieutenant Governor's Office;
b) A certificate of annexation or boundary adjustment;

c) A local entity plat; and

d) An original or certified copy of the ordinance approving the annexation or boundary adjustment.

3) The city recorder shall also send notice of annexation or boundary adjustment to each affected entity; and file a certified copy of the ordinance approving the annexation and a copy of the approved final local entity plat with the Department of Health.

4) AFTER APPROVING A PETITION IT IS IMPORTANT TO REMEMBER: IF TAXES ARE PAID ON PROPERTY FOR ONE YEAR, ANNEXATION CANNOT BE CHALLENGED! (UCA 10-2-422)

10. OTHER INFORMATION:

A. Request for feasibility study – Requirements – Limitations

B. Annexation of an island or peninsula without a Petition – Notice – Hearing (UCA 10-2-418)

For an area outside of the county of the first class proposed for annexation, under certain conditions a municipality may annex an unincorporated area (peninsula or island) without an annexation petition if:

1) Consists of residential or commercial development, requires delivery of municipal-type services, and most or all of the services have been provided for over one year; or

2) Has fewer than 800 residents, and has provided one or more municipal-type services to the area for at least one year; or

3) No more than 50 acres and the county in which the area is located agrees to the proposed annexation.

Authorizes a municipality to adopt an annexation ordinance without allowing or considering protests if the owners of 75% of the land with 75% of the value have consented to the annexation. (UCA 10-2-418)

Upon the effective date under UCA 10-2-425 of an annexation approved by an ordinance adopted under Subsection (3)(b)(i), the area annexed shall be conclusively presumed to be validly annexed. (UCA 10-2-418)

Annexations within county of the first class shall agree to the annexation if the majority of private property owners within the area to be annexed has indicated in writing to the city recorder/clerk the majority of private property owners is property owners who own:

1) The majority of the total private land area within the area proposed for annexation; and

2) Private real property equal to at least ½ the value of private real property within the area proposed for annexation.

A property owner consenting to annexation shall indicate the property owner's consent on a form which includes the following language: "Notice: If this written consent is used to proceed with an annexation of your property in accordance with UCA 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed written withdrawal with the recorder or
clerk of [name of annexing municipality]. If you choose withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with UCA 10-2-418(4)(a)(iv).

C. Boundary adjustment – Notice and hearing – Protest (UCA 10-2-419)

The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

D. Bonds not affected by boundary adjustments or annexation – Payment of property taxes (UCA 10-2-420)

E. Annexation Limitations – Airport, Conical surface area. (UCA 10-2-402(7))

Note: After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township. (UCA 10-2a-405(6))

CHAPTER 8 – FINANCE

ADOPTING THE BUDGET
(from Utah League of Cities and Towns (ULCT))

1. WHAT IS A BUDGET

In UCA 10-6-106(3a), a budget is defined as "...a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them..." However, in practicality, a budget is much more than a simple list of revenues and expenditures. This point is emphasized by state Law which requires the budget officer to include a budget message when presenting a budget to the governing body (UCA 10-6-111(2b)). The budget message must explain the budget, contain an outline of the financial policies of the city; and metro townships of the first class to the same extent as a city, for the budget year, and describe the important features of the budget plan. The message must set forth reasons for significant changes from the previous year and must explain any major changes in financial policy. If this information doesn’t address all issues raised by the governing body, the governing body may, by law, request additional information, including actual performance experience for city programs.

To gain optimum utility from a town or city budget, the budget, in addition to serving as an outline of projected revenues and expenditures, should be:

2. A REFLECTION OF THE POLICY PRIORITIES OF THE ELECTED OFFICIALS

A. The budget is a mechanism for indicating what is most important to you – putting your money where your mouth is.

B. The legislative branch role is to establish overall policy direction – to say what is most important and what resources should be expended to achieve important goals.

C. It is the job of the administration to make recommendations on what is most important, but ultimately to determine the most efficient and effective way of using resources to achieve the policy priorities established by the legislative branch. Administrative staff are the experts on the "how to" part of the budget.
A FINANCIAL OPERATING PLAN

A. The budget helps elected officials plan how to allocate resources to achieve policy goals.

B. Remember, however, that the budget plan and circumstances change. Do not be afraid to change the plan. It is not set in concrete.

C. A tool for communicating with the public about how its money is spent.

D. The budget should be written in plain English – not financial or budget jargon.

E. There is no reason why the budget cannot be understandable to everyone. When it is easily understood, the taxpaying public has a better understanding of what they are getting for their money and why it is important. Once the public understands what they are paying for, elected officials’ lives are easier.

4. DEFINITIONS

Fund: An independent fiscal and accounting entity. Funds may be established either by constitutional provisions, statutes, bond agreements, charter provisions, or local ordinances.

General Fund: This fund pays for general government services (such as police, fire, roads, parks, planning and zoning, financial control, etc.) that are necessary for the overall good of the community. Some individuals in the community may never use these services, but it is essential they be available. Revenue sources included in the general fund are typically property tax, sales tax, franchise tax, energy sales and use tax, Class C road funds and fees charged by the municipality (e.g. licenses, permits, fines). The general fund is usually what irate taxpayers complain about at budget hearings and during the year because they may not see the direct benefit they receive from the services.

Enterprise Funds: These funds are largely funded by user fees. Those who receive the benefit of the service pay for it. User fee revenue is used to pay for the development, operation, and capital costs of providing the service. Enterprise funds are often for utilities such as water, sewer, and power. Many municipalities, however, have established enterprise funds for activities such as refuse collection, golf programs, and airports. Citizens may complain about user fees in these programs because some of the services (e.g. refuse collection, etc.) may have previously been part of the general fund and, thereby, supported by general fund revenue sources.

Internal Service Funds: These funds pay for services that one municipal department provides to other departments. The charges of these funds to departments are based on the actual cost of providing the service. Since most departments are charged for these services, the funding is a mixture of general fund and funds from enterprise funds. Examples of typical internal service funds include fleet maintenance, management information systems and risk management.

Special Revenue Funds: These are funds, with a specific revenue source identified in law, which is to be used for one purpose only. Revenue derived from these sources cannot be used for anything other than the purpose for which they are collected. Examples of special revenue funds are 911 services (funded by a tax on telephone bills), street lighting districts (usually funded by an assessment on properties within the district), impact fee funds, and weed abatement and demolition funds (often funded by placing a lien against the property which the municipality has to act on).

Capital Projects Fund: This fund usually has multiple revenue sources, including transfers from the general fund, Community Development Block Grant (CDBG) and Class C road funds. Enterprise funds usually have capital project monies that are accounted for within the particular enterprise fund. Capital project fund dollars are spent on public improvements such as roads, sidewalks, gutters, drainage, public buildings, development of parks, etc.
Unlike other funds, the budgets for capital improvements do not expire at the end of the fiscal year. Rather, they expire upon completion of the project. These funds may be carried from one fiscal year to another. An increasing number of communities are establishing capital project funds as a mechanism to accumulate money over two or three years for a major capital project. Because the funds do not lapse to the fund balance at year end, long term planning for capital projects is more efficient in a capital project fund.

**Debt Service Funds**: Debt Service Funds contain money specifically set aside to make principal and interest payments on legal debts and obligations (e.g. bonds). Elected officials cannot reduce the appropriations to debt service funds below what is legally required to make the debt payments. If debt service is handled as a fund separate from the general fund, the sources of revenue for the fund are transfers from other funds.

**Fiduciary Funds**: These funds are also labeled “Trust and Agency Funds.” They are used to account for assets held by a municipality in a trustee capacity or as an agent for individuals, private organizations, other governments, and/or other funds. These funds can only be used as stipulated in the trust or agency agreement.

**Budget Officer**: The budget officer is the city auditor in cities of the first and second class; the mayor or some person appointed by the mayor with approval of the city council in cities of the third, fourth and fifth class; the mayor in the council-mayor optional form of government; the person designated by the charter cities; and the mayor or his/her designee in towns.

**Budget Policy**: A goal or objective established by elected officials that is achieved in part by allocating funds.

**Fiscal Year**: July 1 through June 30 of the following year.

**Budget Year**: The fiscal year for which a budget is prepared. For example, when the fiscal year 2018-2019 budgets is prepared, the budget year is 2019. Similarly, when the fiscal year 2018-2019 budget is prepared, the budget year is 2019.

**Governing Body**: A city or town council, as appropriate.

**Town General Fund**: The fund used by a town to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures no required to be accounted for in other funds.

5. **THE BUDGET PROCESS**

In [UCA 10-6-105](http://example.com) during the 1999 Legislative Session, House Bill 290 was passed which authorizes cities to adopt biennial budgets – that is to conduct a budget process every two years. This option was not extended to towns. To participate in the biennial process, a city must notify the State Auditor's Office in writing of the city's intention to complete a biennial budget. It is important to note that, if exercising the biennial option, each of the two budgets must balance independently.

The budget process for cities and towns in Utah is typically as follows:

A. The budget officer receives budget requests from each department. The budget officer is required to discuss the budget request with each department. The budget officer has the authority to then revise the department budget requests. In small towns, this is a fairly short and informal process, whereas in larger communities this process may begin in December to allow the budget to be presented to the city council in May. In communities where Council Members serve as the administrator of a particular department, the Council Member forwards his/her budget request to the mayor for inclusion in the city budget.

B. State law requires the budget officer to prepare a tentative budget for consideration by the governing
body (city council) on or before the first regularly scheduled meeting in May (UCA 10-6-111 for cities and UCA 10-5-107 for towns). All tentative and proposed budget documents must show, in tabular form, actual revenues and expenditures for the previous fiscal year, budget estimates for the current fiscal year, actual revenues and expenditures for a period of 6 months (or longer) of the current fiscal year, estimated total revenues and expenditures for the current fiscal year and proposed revenues for the upcoming fiscal year so the governing body can identify any changes. The tentative budget shall include a budget message explaining the budget, financial policies, important features, and major changes from the previous year.

C. Tentative budgets need to be reviewed, considered, and adopted by the Council prior to public hearings. At the meeting when the tentative budget is adopted, a public hearing shall be scheduled to obtain public comment prior to the final budget adoption (UCA 10-6-113 for cities and UCA 10-5-108 for towns). The public hearing must be advertised at least 7 days prior to the date of the hearing. The advertisement must appear at least once in a newspaper of general circulation within the community. If there is no such newspaper in the community, the advertisement must be posted in three separate public places within the city at least 7 days prior to the hearing, or at least 48 hours prior to the hearing for towns.

D. The tentative budget must be available for public inspection for at least 10 days prior to the date the final budget is adopted.

E. The governing body may make changes in the budget when it is adopted. The final budget must be adopted prior to June 22 unless a property tax increase is contemplated. A copy of the adopted budget must be provided to the State Auditor within 30 days of adoption. Failure to provide the State Auditor with a budget within 30 days can result in a delay or loss of state funding.

F. If the adopted budget contains a property tax rate increase, the governing body must hold a "Truth in Taxation" hearing prior to August 17. The adopted budget is not final until this hearing is held.

G. The city or town council can make mid-year changes to the budget. If a budget is to be increased, the public hearing requirements contained in the budget adoption process must be followed. If the budget is to be decreased, a public hearing is not required.

6. QUESTIONS TO CONSIDER ABOUT THE BUDGET

A. What is the explanation for significant increases or decreases in department budgets? What new programs are being funded and/or why are costs for existing programs increasing?

B. What is the explanation for significant increases or decreases in revenues?

C. Are one-time money funding ongoing expenses in the budget?

D. Are revenue estimates realistic? Ask the budget officer to explain proposed increases in revenue and the basis on which the proposed increases are projected.

E. Are fees related to the cost of providing service or do they exceed/fall short of the cost of actually providing the service?

F. Would it be more appropriate to pay for the costs of a service through a user fee than from the general fund because only those who use the service would pay for it?

G. Are there programs funded in the budget for which the need has declined or disappeared?
H. Are there programs in the budget which provide essential services and for which the workload has increased? Has the resource allocation increased?

I. Are the service levels for critical services adequate or inadequate? What are the standards against which your service delivery is being measured?

J. Are there opportunities for increased efficiency by consolidating service delivery in one division/department or with another jurisdiction?

K. What alternative service delivery systems have been evaluated? What is the reason(s) the delivery system funded in the budget was chosen as the best?

L. Are there any other sources of funding available such as federal or state grants?

7. THINGS EVERY ELECTED OFFICIAL SHOULD KNOW ABOUT BUDGETS

A. Expenditures must equal revenue. Expenditures must never exceed available revenue. If, during the fiscal year, expenditures exceed revenue or exceed the amount budgeted, a budget amendment must be held to correct the problem(s).

B. The fiscal year for Utah's cities and towns and the state is from July 1 through June 30 of the following calendar year. The federal government and the counties operate on different fiscal years.

C. The budget officer can transfer money from one major category to another within any department of the general fund or within an enterprise fund.

D. The budget officer must seek council approval to move money from one department to another within the general fund and from one fund to another.

E. No one can reduce debt service fund appropriations below the amount legally required to fulfill the debt obligation.

F. If adequate funds are not appropriated for debt service, the municipality can be forced to appropriate the funds by the courts or the courts can impose a property tax increase to raise funds for debt service.

G. Towns may accrue general fund balance up to 75% of the estimated annual general fund revenue. If the general fund balance is below 5% of that year's estimated general fund revenue, it cannot be appropriated except in the event of a natural disaster or similar emergency.

H. Cities may accrue general fund balance up to 18% of the estimated general fund revenue. If the general fund balance is below 5% of that year's estimated general fund revenue, it cannot be appropriated except in the event of a natural disaster or similar emergency.

I. General fund balance can be used to address disasters such as floods and earthquakes regardless of the current balance amount. In rare circumstances, deficits may be incurred in the general fund to address such emergencies.

J. All unexpected appropriations and/or revenues in excess of budget, except capital improvement funds, lapse to fund balance on June 30. (NOTE: excess general fund monies lapse to the general fund balance while excess monies in enterprise funds lapse to the fund balance or retained earnings of the specific enterprise fund.)
K. By law, the property tax rate cannot exceed .007 per dollar of taxable value of taxable property. (Towns = UCA 10-5-112(2) and Cities = UCA 10-6-133(5)).

L. Cities and towns can enter into agreements to receive payments in lieu of taxes with tax-exempt organizations, including the city's or town's own enterprise funds, for providing general fund services (e.g. police and fire protection).

M. One-time money should be spent on one-time projects. When one-time money is used to balance a budget by paying for ongoing services, the following year's budget will likely start out in a deficit because one-time money is likely no longer available.

MONITORING THE BUDGET
(from Utah League of Cities and Towns (UCT))

Often times, elected officials only think about the budget in May and June during the formal budget adoption process. This approach often leads to mid-year surprises and frustration. The most effective elected officials have learned that monitoring the budget throughout the year is essential. In fact, State law calls for monthly summary and quarterly detailed monitoring (UCA 10-6-147 and 10-6-148). Many communities have adopted more rigorous monitoring schedules.

1. THINGS EVERY ELECTED OFFICIAL SHOULD KNOW ABOUT REVENUES – WHY MONITOR REVENUE

A. Revenue can be affected by a large number of variables and will change from year to year.

B. Projecting revenue is part science, part art, and part philosophy and part luck. Revenue is never received exactly as projected.

C. It is critical to be aware of a revenue shortfall by mid-year. If annual revenue projections are off by 2%, with only six months of the fiscal year remaining, the city/town may need to cut up to 4% of the remaining budget. If the revenue shortfall is not identified until March, with only three months of the fiscal year remaining, the city/town may need to cut up to 8% of the remaining budget. The longer the city/town waits to take budget action, the deeper the cuts will have to be, and the less flexibility departments will have to adjust which do not affect service levels.

2. WHAT CAN AFFECT REVENUE

A. The performance of the economy affects sales tax, building permits and business licenses.

B. County reappraisals can either increase or decrease the assessed valuation of property and thereby affect property tax.

C. State-assessed property (mining, utilities, and railroads) is assessed using a revenue-based formula which makes tax revenue generated from these sources volatile with wide swings from year to year.

D. The weather can affect franchise tax revenue because temperature extremes create demand for electricity and gas while drought conditions increase demand for water. Similarly, mild weather often has an adverse effect on franchise tax revenue.

E. Utility rate decreases will decrease franchise tax revenue and utility rate increases will increase franchise tax revenue.

F. Unanticipated delays in implementation of new fees can affect revenue in the first years of a new program.
G. Changes in revenue collection policies or procedures by the County and/or State (e.g. monthly rather than quarterly collection of sales tax created a one-time windfall for municipalities).

H. Legislative changes in the distribution formulas affect revenue (e.g. the shift in sales tax distribution formula away from point of sale to population).

3. WHEN IS REVENUE RECEIVED

A. The bulk of property tax revenue is received in November and December.

B. The largest sales tax payment is usually received in February and is for December sales.

4. HOW TO DEAL WITH UNEVEN REVENUE FLOW

A. The law allows local governments to issue Tax Revenue Anticipation Notes (TRANs) to address short-term cash flow needs. The law stipulates that the maximum amount of TRANs that can be issued for the year must come within a safe harbor which is calculated based on the city's or town's cash flow deficit.

B. Some municipalities carry significant fund balances in their enterprise funds (e.g. water and sewer utilities, electric utilities, etc.). It is permissible for the general fund to borrow from enterprise funds until property tax revenue is received by the treasury.

C. Some municipalities have significant cash balances. It is permissible to use these cash balances to address annual cash flow deficits. Remember, however, that moving cash balance from the fund balance to the budget requires a budget amendment.

5. HOW TO DEAL WITH A PROJECTED REVENUE SHORTFALL

A. Raising revenue (tax or fee increase) is one method, but is not generally considered a good option by elected officials to address mid-year budget crises.

B. Cutting expenditures mid-year is usually the best solution. There are two options: base budget cuts are the best because revenue shortfalls are often a result of over-projection of revenue growth (i.e. base revenue has been over estimated) and, therefore are ongoing. If base budget cuts are made, the next budget development cycle will not begin "in the hole." It can be argued, however, that base budget cuts are best reviewed within the context of the overall budget development process to ensure that cuts reflect the policy of elected officials rather than the biases of departments. Therefore, at mid-year, one-time budget cuts are often both expedient and acceptable.

C. Delaying or eliminating a capital improvement project may also be a viable option.

D. However, it should be cautioned that routinely "balancing the budget" on the back of the capital improvement program will eventually lead to deteriorated infrastructure and, if extreme, may necessitate the need for emergency expenditure in the future if infrastructure failure occurs.

E. One-time money can be used to offset a revenue shortfall, but since the funds are one-time and will not be available next year, the budget development process will begin with a shortfall of ongoing revenue as compared to expenditures.

F. In the general fund, fund balance can be used to offset a revenue shortfall if the fund balance is greater than 5% of projected general fund revenue. However, fund balance is one-time money. Unless the municipality intends to continue drawing down fund balance, using fund balance to solve a revenue
shortfall creates the same problem as using one-time revenue. Using fund balance to offset a revenue shortfall is a stop gap measure.

6. THINGS EVERY ELECTED OFFICIAL SHOULD KNOW ABOUT EXPENDITURES – MONITORING DEPARTMENT BUDGETS

A. Not less than quarterly, departmental budgets should be monitored, and the percentage of the fiscal year completed should be compared to the percentage of each department's budget which has been expended. To the extent possible, expenditure projections should include adjustments for outstanding liabilities, deferred capital expenditures, and uneven expenditure patterns.

B. Some departments have uneven expenditure patterns resulting from the nature of the business. Examples include parks departments, which experience most of their activity in the summer and snow removal programs, which experience most of their budget activity in the winter.

C. Some departments choose to defer budgeted purchases until the end of the fiscal year, so they will be prepared to cut those expenditures in the event of a revenue shortfall.

D. Quarterly reports should project expenditures to year-end.

7. HOW TO HANDLE PROJECTED OVER EXPENDITURES

A. There are many things that can create the need for an unanticipated expenditure.

B. Examples include legal judgments against the municipality, infrastructure failure, unique opportunities, natural disasters, etc.

C. Hold top management accountable to provide an explanation of expenditures in excess of budget, including efforts to manage the problem without additional resources.

D. Only over-expenditures which are a result of events that could not be anticipated or managed are an acceptable explanation for overrunning a budget.

E. An obvious way to handle over-expenditures in one program area is to reduce expenditures in another. Elected officials, however, should look at the proposed reductions carefully to assess the impact on policy implementation and service labels.

F. Cut administration or non-essential expenditures rather than areas which will affect service levels.

G. Don't accept cuts made from the most visible and politically volatile areas. This is often a ploy used by departments hoping to avoid taking any cuts at all.

H. Moving funds from one department to another to handle over expenditure is one way to solve the problem. However, such a transfer needs to be evaluated to determine the impact on policy implementation and service levels. This option may create tension among departments. The primary danger of this approach is that a department that failed to manage expenditures within budget appears to be rewarded, while a more prudent department appears to be penalized.

I. Contingency is a good option for addressing unanticipated expenditures. Unexpected expenditure is the reason for establishing a contingency budget.

J. Fund balance can be used to pay over expenditures, if the balance exceeds 5% of general fund revenue.
In the case of a disaster, you can spend fund balance below 5% of general fund revenue. You can also deficit-spend in the case of disaster, if necessary.

8. HOW TO HANDLE PROJECTED UNDER EXPENDITURES

A. Find out why funds are not being expended. Assess whether policy priorities and service level expectations are being addressed. If they are not, someone may be exercising "pocket veto."

B. If policy priorities and service level expectations are being addressed, congratulate those responsible for increasing the efficiency of service delivery.

C. If policy priorities and service level expectations are not being addressed, find out who is making the decision not to make the expenditures. If it is the mayor, you have a political problem to solve. If it is the city manager or someone in the department, you have a personnel problem which the mayor and council must address.

9. MONITORING CAPITAL PROJECTS

A. If the municipality has a large capital project that involves a lot of money and is politically volatile, a committee can be established to oversee expenditures and priorities on a monthly basis.

B. Because there are many unpredictable variables that affect a capital project, budgets or capital projects are more difficult to estimate. There are often changes in scope, cost overruns and cost under runs. Frequently, there is a small amount of funding left when the project is complete. It is a good policy to save all this "slippage" and sweep it into the next year's funding for capital projects rather than spending it as the year progresses. If slippage is allocated back into the capital projects fund the following year, the city/town is more likely to achieve major capital project priorities.

C. Because all capital projects are usually budgeted in a capital improvement fund, the mayor or administrative budget officer has the authority to move funds from one project to another. It is useful to establish a protocol between the mayor (and administrative budget officer) and city council, whereby the city council will be notified of any changes in the scope of a project which exceed 10% or 20% of the originally projected cost.

D. The mayor or administrative budget officer cannot fund new capital projects without city council concurrence.

10. AMENDING THE BUDGET

A. The budget officer may, without Council consent, move funds from one major category to another within an enterprise fund or form one major category to another within any department of the general fund. This type of amendment is called an "administrative" amendment.

B. The city council may, by simple resolution, move funds from one department to another department within any enterprise fund (i.e. From water to sewer within a combined enterprise fund). If the total of the fund is not increased, the council is not required to conduct a public hearing, although the council may choose to hold the hearing.

C. All other budget amendments require city council action and a public hearing.

D. A public hearing must be advertised in a newspaper of general circulation at least seven days in advance.
E. After the hearing, the legislative body can make necessary changes in the budget.

F. Any item on which action can be deferred should be held until it can go through the regular budget development and adoption process. Some items won't look nearly as important when compared to all other budget priorities as they do when standing alone in a budget amendment.

<table>
<thead>
<tr>
<th>Legally* Mandated Budget Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please note: The dates presented below are the latest possible dates on which municipalities can take action during the budget process and still be in compliance with state law. It is to the advantage of elected officials to take action before the legally required date in order to leave time for deliberation and community input.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ACTION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor's proposed budget presented to City Council</td>
<td>First regularly scheduled council meeting in May UCA 10-6-111, UCA 10-5-107</td>
</tr>
<tr>
<td>Budget available for public inspection</td>
<td>UCA 10-6-112, UCA 10-5-107</td>
</tr>
<tr>
<td>Notice of budget public hearing published in newspaper of general</td>
<td>UCA 10-6-113, UCA 10-5-108</td>
</tr>
<tr>
<td>Public hearing held on budget</td>
<td>UCA 10-6-114, UCA 10-5-108</td>
</tr>
<tr>
<td>Budget adopted</td>
<td>UCA 10-6-118, UCA 10-5-109</td>
</tr>
<tr>
<td>If property tax rate will not increase, set property tax rates</td>
<td>UCA 10-6-133, UCA 10-5-112</td>
</tr>
<tr>
<td>Tax rate ordinance or resolution provided to the County</td>
<td>UCA 10-6-133, UCA 10-5-112</td>
</tr>
<tr>
<td>Copy of adopted budget filed with the State Auditor</td>
<td>UCA 10-6-118, UCA 10-5-109</td>
</tr>
<tr>
<td>Provide public notice of truth in taxation hearing, if</td>
<td>UCA 10-6-133, UCA 59-2-919, UCA 10-5-112</td>
</tr>
<tr>
<td>If property taxes are proposed to increase, hold a truth in taxation public hearing</td>
<td>UCA 10-6-133, UCA 59-2-919, UCA 10-5-112</td>
</tr>
<tr>
<td>Prepare annual financial report</td>
<td>UCA 10-6-150, UCA 10-5-129</td>
</tr>
<tr>
<td>Prepare annual financial audit (if the entity's combined total revenue does not exceed $150,000 a financial report will replace the audit)</td>
<td>UCA 10-6-151, UCA51-2a-2, UCA 10-5-129</td>
</tr>
<tr>
<td>Publish notice of availability of financial audit for public review</td>
<td>UCA 10-6-150</td>
</tr>
<tr>
<td>Council review monthly summary and quarterly detail financial reports</td>
<td>UCA 10-6-147</td>
</tr>
</tbody>
</table>

*These dates require considerable interpretation of the Fiscal Procedures Act. Additionally, since there is some ambiguity and inconsistency within the law, these dates may be explicitly included in State statute or merely represent good practice.

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<table>
<thead>
<tr>
<th>Budget Responsibilities*</th>
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</thead>
<tbody>
<tr>
<td>Responsible</td>
</tr>
</tbody>
</table>

| Action | First & Second Class | Third, Fourth & Fifth Class | Towns |

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<table>
<thead>
<tr>
<th>Task Description</th>
<th>Responsible Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparation of the proposed budget</td>
<td>Mayor, City Auditor or City Manager</td>
</tr>
<tr>
<td>Ensure proposed budget is available for public inspection</td>
<td>Mayor, City Auditor or City Manager</td>
</tr>
<tr>
<td>Notice of public hearing on budget published or posted</td>
<td>Council or City Manager</td>
</tr>
<tr>
<td>Hold public hearing on budget</td>
<td>Council</td>
</tr>
<tr>
<td>Adopt budget and set property tax rate</td>
<td>Council</td>
</tr>
<tr>
<td>Provide a copy of property tax ordinance or resolution to county auditor</td>
<td>City Recorder, City Manager or City Recorder</td>
</tr>
<tr>
<td>File a copy of adopted budget with State Auditor</td>
<td>City Auditor, City Manager or City Recorder</td>
</tr>
<tr>
<td>Provide public notice of truth in taxation hearing</td>
<td>Council, City Manager or City Recorder</td>
</tr>
<tr>
<td>Hold truth in taxation hearing and set property tax rate</td>
<td>Council</td>
</tr>
<tr>
<td>Provide quarterly financial reports</td>
<td>City Auditor</td>
</tr>
<tr>
<td>Prepare annual financial reports</td>
<td>City Auditor</td>
</tr>
<tr>
<td>Ensure annual financial audit is completed as required</td>
<td>Council</td>
</tr>
<tr>
<td>Publish notice of availability of financial reports and audit for public review</td>
<td>City Recorder, City Recorder</td>
</tr>
</tbody>
</table>

*State statute does not always prescribe the specific position with responsibility. The responsibilities were compiled based on State statute and good practice.*

**BUDGET INSTRUCTIONS - CITIES**

1. Budget forms submitted must present a balanced budget as required by [UCA 10-6-110](https://www.leg.state.ut.us/). In the general fund and special revenue funds, budgeted expenditures must equal budgeted revenues. If prior year surplus amounts are to be appropriated in a budget (see restrictions for general fund per [UCA 10-6-116](https://www.leg.state.ut.us/)), the amount is to be presented as a source of revenue in the budget. Also, any budgeted increase in a fund balance must be presented as expenditure within the appropriate budget.

2. Any special revenues which coincide with general fund operations should be budgeted within the general fund budget. Examples of such revenues are: Class "C" road, and appropriate federal grants, etc. A separate budget may be prepared for these types of funds with the expenditures shown as transfers to the general fund or other funds. The form for special revenue funds should be used if this is the case.

**FORM 1**: To be completed for special revenue funds.

**FORM 2**: To be completed for debt service funds. (Bonds to be repaid from enterprise funds should be budgeted and reported in the enterprise fund rather than the debt service fund.)
FORM 3: The enterprise budget form is an accrual basis budget. While we acknowledge that a cash flow analysis is critical to the effective operation of any organization, it is more important to know whether the enterprise is operating at a profit or loss on current year revenues and expenses in a fiscal year period. Since enterprise funds are required to follow the same accounting principles for determining profit or loss that a private company is, it must be recognized that certain items such as bond proceeds are not revenues even though they provide cash, and items such as construction and major improvements of systems and debt repayment are not expenses even though they use cash. Accordingly, the city may use the cash reconciliation section provided at the bottom of the form if desired for cash flow analysis. Net income (loss) should not reflect retained earnings. Budget forms for local governments can be found online at the Office of the State Auditor – Forms for Local Governments.

3. A separate budget should be submitted for each enterprise function, such as water and electric. A combined budget may be prepared only if the function of the enterprise is closely related, such as water and sewer.

4. Bonds to be repaid from enterprise funds should be budgeted and reported in the enterprise fund rather than the debt service fund.

FORM 4: To be completed for capital projects funds.

NOTE: See Budgeting in the Uniform Accounting Manual for a summary of fiscal laws relating to the preparation, adoption, and modification of budgets. Cities: UCA 10-6-109–111 All: GASB 34, 54

BUDGET INSTRUCTIONS - TOWNS

1. Budget forms submitted must present a balanced budget as required by UCA 10-5-105 through 107. In the general fund and special revenue funds, budgeted expenditures must equal budgeted revenues. If prior year surplus amounts are to be appropriated in a budget (see restrictions for general fund per UCA 10-5-113), the amount is to be presented as a source of revenue in the budget. Also, any budgeted increase in a fund balance must be presented as expenditure within the appropriate budget.

2. Any special revenues which coincide with general fund operations should be budgeted within the general fund budget. Examples of such revenues are: Class AC@ road, and appropriate federal grants, etc. A separate budget may be prepared for these types of funds with the expenditures shown as transfers to the general fund or other funds. The form for special revenue funds should be used if this is the case.

A. The enterprise budget form is an accrual basis budget. While we acknowledge that a cash flow analysis is critical to the effective operation of any organization, it is more important to know whether the enterprise is operating at a profit or loss on current year revenues and expenses in a fiscal year period. Since enterprise funds are required to follow the same accounting principles for determining profit or loss that a private company is, it must be recognized that certain items such as bond proceeds are not revenues even though they provide cash, and items such as construction and major improvements of systems and debt repayment are not expenses even though they use cash. Accordingly, the city may use the cash reconciliation section provided at the bottom of the form if desired for cash flow analysis. Net income (loss) should not reflect retained earnings.

B. A separate budget should be submitted for each enterprise function, such as water and electric. A combined budget may be prepared only if the function of the enterprise is closely related, such as water and sewer.

C. Bonds to be repaid from enterprise funds should be budgeted and reported in the enterprise fund rather than the debt service fund.
See Budgeting in the Uniform Accounting Manual for a summary of fiscal laws relating to the preparation, adoption, and modification of budgets. Towns: (UCA 10-5-107) All: GASB 34, 54

CERTIFICATION OF BUDGET

ADOPTION OF BUDGET INFORMATION:

In compliance with (UCA 10-6-111, 10-6-113, 10-6-118, 59-2-919 and 59-2-923), as amended which states in effect:

"On or before the first regularly scheduled City Council meeting of May, the mayor shall prepare for the ensuing year, a tentative budget for each fund for which a budget is required. The council shall review, consider and tentatively adopt the tentative budget and shall establish the time and place of the public hearing to receive public comment on the budget. Before June 22, or in the case of a property tax increase before August 17, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required. A copy of the final budget for each fund shall be filed with the State Auditor within 30 days after adoption."

I, the undersigned, certify that the attached budget document is a true and correct copy of the budget of ____________ City for the fiscal year ending ____, 20__ as approved and adopted by resolution or ordinance dated. A public hearing meeting the requirements specified in Utah Code section (indicate which):

[ ] (UCA 10-6-113-118) (no increase in tax rate - final budget adopted by June 22);
[ ] (UCA 59-2-920) (increase in tax rate - final budget adopted by August 17)

was held on _____________________, 20__ for all budgetary funds.

Signed: ________________________
(Budget Officer)

Subscribed and sworn to this ____ day
of _____________________, 20 ___.

___________________________
(Notary Public)
CERTIFICATION OF BUDGET

ADOPTION OF BUDGET INFORMATION

In compliance with (UCA 10-5-107, 10-5-109, 59-2-919, 59-9-923), as amended which states in effect:

"On or before the first regularly scheduled Town Council meeting of May, the mayor shall prepare for the ensuing year, a tentative budget for each fund for which a budget is required. The council shall review, consider and tentatively adopt the tentative budget and shall establish the time and place of the public hearing to receive public comment on the budget. Before June 22, or in the case of a property tax increase before August 17, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required. A copy of the final budget for each fund shall be filed with the State Auditor within 30 days after adoption."

I, the undersigned, certify that the attached budget document is a true and correct copy of the budget of Town for the fiscal year ending _______ ________, 20____ as approved and adopted by resolution or ordinance dated.

A public hearing meeting the requirements specified in Utah Code section (indicate which):

[ ] (UCA 10-5-109) (no increase in tax rate - final budget adopted before June 22)
[ ] (UCA 59-2-919) (increase in tax rate - final budget adopted before August 17)

was held on ____________________________, 20____ for all budgetary funds.

Signed: _____________________________
(Budget Officer)

Subscribed and sworn to this ___ day
of ________________, 20__ .

__________________________
(Notary Public)

For more information regarding sales tax information, contact the Utah State Tax Commission or at:

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TAX RATES

1. DEFINITIONS

"Certified Tax Rate" provides the same amount of property tax revenue as was collected in the previous year, excluding the revenue generated by real new growth (UCA 59-2-924(2)). Information is provided from the state to the county, then to the city or town.

CERTIFIED TAX RATE = PREVIOUS YEAR’S TAXES COLLECTED DIVIDED BY CURRENT YEAR’S ADJUSTED TAXABLE VALUE LESS NEW GROWTH

TAX RATE = PROPERTY TAX REVENUE DIVIDED BY TAXABLE VALUES

Utah State Tax Commission PROPERTY TAX CALENDAR

2. TAX REFERENCES FROM THE UTAH STATE CODE

A. Local Government Bonding Act

(UCA 11-14-103) Bond issues Authorized – Purposes – Use of Bond Proceeds
(UCA 11-14-318) Public Hearing Required

B. Sales and Use Tax

(UCA 59-12-102) Revenue and Taxation - Definitions
(UCA 59-12-103) Tax Collection
(UCA 59-12-104) Exemptions

C. The Local Sales and Use Tax Act

(UCA 59-12-201) Title
(UCA 59-12-202) Purpose and Intent
(UCA 59-12-203) County, City, Town, or Metro Township May Levy Tax – Contracts Pursuant to Interlocal Cooperation Act.
(UCA 59-12-204) Sales and Use Tax Ordinance Provisions – Tax rate – Distribution of Tax Revenues

Collection of Taxes by Commission – Administrative Charge

Enactment or Repeal of Tax – Effective Date – Notice Requirements

Commission Redistribution of Certain Sales and Use Tax Revenues

Definitions – Location of Certain Transactions – Reports to Commission

D. Transient Room Tax

Transient Room Tax -- Rate -- Expenditure of Revenues -- Enactment or Repeal of Tax -- Tax Rate Change -- Effective Date – Notice Requirements

Collection of tax – Administrative Charge

E. Municipality Transient Room Tax

Transient Room Tax Authority for Municipalities and Military Installation Development Authority – Purposes for Which Revenues May Be Used

Collection of Tax – Administrative Charge

Enactment or Repeal of Tax – Tax Rate Change – Effective Date – Notice Requirements

F. Resort Communities Tax

Resort Communities Tax Authority for Cities, Towns, And Military Installation Development Authority – Base – Rate – Collection Fees

Additional Resort Communities Sales and Use Tax – Base –Rate Collection Fees – Resolution and Voter Approval Requirements – Election Requirements – Notice Requirements – Ordinance Requirements

Enactment or Repeal of Tax – Tax Rate Change – Effective Date – Notice Requirements – Administration, Collection, and Enforcement of Tax

Definitions – Municipality Filing Requirements for Lodging Unit Capacity – Failure to Meet Eligibility Requirements – Notice to Municipality – Municipality Authority to Impose Tax

G. Public Transit Tax

County, City, or Town Option Sales and Use Tax for Airports, Highways, and Systems for Public Transit – Base – Rate – Administration of Sales and Use Tax – Voter Approval Exception

H. Tourism, Recreation, Cultural, Convention and Airport Facilities Tax Act
1. **ABBREVIATIONS AND NUMERALS** – [UCA 78A-2-215](#)

Common abbreviations may be used, and numbers may be expressed by customary figures or numerals in court documents.

2. **ADMINISTRATIVE RESPONSIBILITIES OF JUSTICE COURT JUDGE** – [UCA 78A-7-210](#)

   A. Justice court judges shall comply with and ensure that court personnel comply with applicable county or municipal rules and regulations related to personnel, budgets, and other administrative functions.

   B. Failure by the judge to comply with applicable administrative county or municipal rules and regulations may be referred, by the county executive or municipal legislative body, to the state Justice Court Administrator.

   C. Repeated or willful noncompliance may be referred, by the county executive or municipal legislative body, to the Judicial Conduct Commission.

3. **ANNUAL JUDICIAL CONFERENCE** – [UCA 78A-2-111](#)

   A. There is established an annual judicial conference for all courts of this state, to facilitate the exchange of ideas among all courts and judges, and to study and improve the administration of the courts.

   B. All elections provided in this act shall be conducted during the annual judicial conference.

4. **APPEALS FROM JUSTICE COURT – TRIAL OR HEARING DE NOVO IN DISTRICT COURT** – [UCA 78A-7-118](#)

   A. In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 30 days of:

      1) sentencing, except as provided in Subsection (4)(b); or

      2) a plea of guilty or no contest in the justice court that is held in abeyance.

   B. Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in [UCA 77-20-10](#) and the [Rules of Criminal Procedure](#).
C. If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

D. A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 30 days of:

1) an order revoking probation;
2) an order entering a judgment of guilt pursuant to the person's failure to fulfil the terms of a plea in abeyance agreement;
3) a sentence entered pursuant to Subsection (4)(b); or
4) an order denying a motion to withdraw a plea.

E. The prosecutor is entitled to a hearing de novo in the district court on:

1) a final judgment of dismissal;
2) an order arresting judgment;
3) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;
4) a judgment holding invalid any part of a statute or ordinance;
5) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that prevents continued prosecution of an infraction or class C misdemeanor;
6) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor; or
7) an order granting a motion to withdraw a plea of guilty or no contest.

F. A notice of appeal for a hearing de novo in the district court on a pretrial order excluding evidence under Subsection (5)(e) or (f) shall be filed within 30 days of the order excluding the evidence.

G. Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

1) the decision results in immediate dismissal of the case;
2) with agreement of the parties, the district court consents to retain jurisdiction; or
3) the defendant enters a plea of guilty or no contest in the district court.

H. The district court shall retain jurisdiction over the case on trial de novo.

I. The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

A. A person may not be appointed to the position of court reporter nor act in the capacity of a court reporter in any court of record of this state, or before any referee, master, board, or commission of this state without a currently valid license from the Division of Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified Court Reporters Licensing Act.

B. Before any person may act as a court reporter, the person shall:

1) take, subscribe, and file the constitutional oath; and

2) give a bond with sufficient surety, conditioned upon the faithful performance of all duties, in the sum of $2,500, or larger sum if ordered by the judge.

C. The bond shall run to the state of Utah, but an action on it may be maintained by any person whose rights are affected by the failure of the reporter to perform the reporter's official duties.


A. The administrator of the courts, with the approval of the presiding officer of the council, is responsible for the establishment of positions and salaries of assistants as necessary to enable him to perform the powers and duties vested in him by this chapter, including the positions of appellate court administrator, district court administrator, juvenile court administrator, and justices' court administrator, whose appointments shall be made by the administrator of the courts with the concurrence of the respective boards as established by the council.

B. The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint in each district a trial court executive. The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court. The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

C. Administrators and assistants appointed under this section shall be known collectively as the Administrative Office of the Courts.

7. AUTHORITY OF MAGISTRATE – UCA 78A-2-220

A. Except as otherwise provided by law, a magistrate as defined in UCA 77-1-3 shall have the authority to:

1) commit a person to incarceration prior to trial;

2) set or deny bail under UCA 77-20-1 and release upon the payment of bail and satisfaction of any other conditions of release;

3) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under UCA 77-23-104;

4) conduct an initial appearance in a felony;

5) conduct arraignments;
6) conduct a preliminary examination to determine probable cause;
7) appoint attorneys and order recoupment of attorney fees;
8) order the preparation of presentence investigations and reports;
9) issue temporary orders as provided by rule of the Judicial Council; and
10) perform any other act or function authorized by statute.

B. A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

1) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment in a felony case as provided by rule of the Judicial Council; and
2) a judge of the justice court may not set bail in a capital felony nor deny bail in any case.

8. CERTIFICATE OF ATTENDANCE – RECORDS AND REPORTING – UCA 78B-1-122

Every justice court shall follow the established disbursement process for juror and witness fees within the town, city, or county, or use the following procedure.

A. A justice court judge shall provide to each person who has served as a juror or as a witness in a criminal case when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate that contains:

1) the name of the juror or witness;
2) the title of the proceeding;
3) the number of days in attendance;
4) the number of miles traveled if the witness has traveled more than 50 miles in going only; and
5) the amount due.

B. The certificate shall be presented to the county or city attorney. When certified as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw a warrant for it on the treasurer.

C. Every justice court judge shall keep a record of all certificates issued. The record shall show all of the facts stated in each certificate. On the first Monday of each month a detailed statement of all certificates issued shall be filed with the treasurer.

9. CERTIFIED TRANSCRIPTS PRIMA FACIE CORRECT– UCA 78A-2-409

A transcript of a certified court reporter's notes, written in longhand or typewritten, certified by the court reporter as being a correct transcript of evidence and proceedings, is prima facie a correct statement of the evidence and proceedings.
10. CHANGE OF PLACE OF TRIAL BECAUSE OF CALAMITY – UCA 78A-2-210

A. The presiding judge may order court proceedings to be held at another location within the jurisdiction if the presiding judge determines it is necessary because of:

1) war
2) insurrection
3) pestilence
4) public calamity or natural disaster
5) destruction of or danger to the building in which court is held

B. Any order to move court proceedings shall be reduced to writing and filed with the clerk of the court for publication.

11. CIVIL FEES OF THE COURTS OF RECORD – COURTS OF COMPLEX DESIGN – UCA 78A-2-301

A. 1) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $360.

2) The fee for filing a complaint or petition is:

   a) $75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

   b) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

   c) $360 if the claim for damages or amount in interpleader is $10,000 or more;

   d) $310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

   e) $35 for a motion for temporary separation order filed under UCA 30-3-4.5;

   f) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under UCA 77-41-112; and

   g) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

3) The fee for filing a small claims affidavit is:

   a) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

   b) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and
c) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

4) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

   a) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;
   b) $150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;
   c) $155 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and
   d) $115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

5) The fee for filing a small claims counter affidavit is:

   a) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;
   b) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and
   c) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

6) The fee for depositing funds under UCA 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

7) The fee for filing a petition is:

   a) $225 for trial de novo of an adjudication of the justice court or of the small claims department; and
   b) $65 for an appeal of a municipal administrative determination in accordance with UCA 10-3-703.7.

8) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $225.

9) The fee for filing a petition for expungement is $135.

10) a) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges’ Contributory Retirement Trust Fund and the Judges’ Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges’ Contributory Retirement Act, and Title 49, Chapter 18, Judges’ Noncontributory Retirement Act.
b) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children’s Legal Defense Account, as provided in UCA 51-9-408.

c) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in UCA 78B-6-209.

d) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in UCA 78A-2-602.

e) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in UCA 78A-2-602.

11) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

12) The fee for filing a renewal of judgment in accordance with UCA 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

13) The fee for filing probate or child custody documents from another state is $35.

a) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is $30.

b) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is $50.

14) The fee for filing a judgment by confession without action under UCA 78B-5-205 is $35.

15) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

16) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

17) The fee for filing any accounting required by law is:

a) $15 for an estate valued at $50,000 or less;

b) $30 for an estate valued at $75,000 or less but more than $50,000;

c) $50 for an estate valued at $112,000 or less but more than $75,000;

d) $90 for an estate valued at $168,000 or less but more than $112,000; and

e) $175 for an estate valued at more than $168,000.
18) The fee for filing a demand for a civil jury is $250.

19) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

20) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

21) The fee for a petition to open a sealed record is $35.

22) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

23) a) The fee for a petition for authorization for a minor to marry required by UCA 30-1-9 is $5.

   b) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is $50.

24) The fee for a certificate issued under UCA 26-2-25 is $8.

25) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

26) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

27) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

28) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

29) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

30) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection A) 30) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

B. 1) a) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

   b) i) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and
take other actions necessary to initiate the development of a courts complex in Salt Lake City.

ii) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

iii) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

c) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

d) The Division of Facilities Construction and Management shall:

i) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

ii) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

2) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

3) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

4) a) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to UCA 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

b) After June 30, 1998, the administrator of the courts or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to UCA 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

C. 1) There is created within the General Fund a restricted account known as the State Courts Complex Account.

2) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:
a) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

b) to cover operations and maintenance costs on the court complex.

12. CIVIL FEES FOR JUSTICE COURTS – UCA 78A-2-301.5

A. The fee for filing a small claims affidavit is:

1) $60 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is $2,000 or less;

2) $100 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

3) $185 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is $7,500 or more.

B. The fee for filing a small claims counter affidavit is:

1) $50 if the claim for relief exclusive of justice court costs, interest, and attorney fees is $2,000 or less;

2) $70 if the claim for relief exclusive of justice court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

3) $120 if the claim for relief exclusive of justice court costs, interest, and attorney fees is $7,500 or more.

C. The fee for filing a petition for expungement is $135.

D. The fee for a petition to open a sealed record is $35.

E. The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

F. The fee for filing a notice of appeal to a court of record is $10. This fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

G. The fee for a certified copy of a document is $4 per document plus 50 cents per page.

H. The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

I. The fee schedule adopted by the Judicial Council for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act, shall apply.

J. There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

K. The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political
subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (11) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

13. CIVIL FILING FEES – UCA 78A-8-105
   
   A. Except as provided in this section, the fees for a small claims action in justice court shall be the same as provided in UCA 78A-2-301.
   
   B. Fees collected in small claims actions filed in municipal justice court are remitted to the municipal treasurer. Fees collected in small claims actions filed in a county justice court are remitted to the county treasurer.
   
   C. The fee in the justice court for filing a notice of appeal for trial de novo in a court of record is $10. The fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

14. COMPENSATION - ANNUAL REVIEW AND ADJUSTMENT– UCA 78A-7-207
   
   A. The governing body of each municipality or county shall annually review and may adjust the compensation paid.
   
   B. The salary fixed for a justice court judge may not be diminished during the term for which the judge has been appointed or elected.
   
   C. A copy of the resolution, ordinance, or other document fixing the salary of the justice court judge and any adjustments to the document shall be furnished to the state court administrator by the governing body of the municipality or county.

15. COMPENSATION OF INTERPRETER – UCA 78B-1-208
   
   An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses. The fee shall be based on a fee schedule for interpreters recommended by the division of rehabilitation services or on prevailing market rates. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally. Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

   
   Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the administrator shall:
   
   A. organize and administer all of the nonjudicial activities of the courts;
   
   B. assign, supervise, and direct the work of the nonjudicial officers of the courts;
   
   C. implement the standards, policies, and rules established by the council;
   
   D. formulate and administer a system of personnel administration, including in-service training programs;
E. prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices’ courts in their budgetary, fiscal, and accounting procedures;

F. conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;

G. develop uniform procedures for the management of court business, including the management of court calendars;

H. maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;

I. establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;

J. establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;

K. when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

L. organize and administer a program of continuing education for judges and support staff, including training for justice court judges;

M. provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and

N. perform other duties as assigned by the presiding officer of the council.

17. COURT DOCKETING PROGRAMS

A. Administrative Office of the Courts

B. Caselle
P.O. Box 31
1570 North Main
Spanish Fork UT 84660
Phone: (801) 798-9851

C. Justice Court Information Systems


A. There is created a restricted account in the General Fund known as the Court Security Account.

B. The state treasurer shall deposit in the Court Security Account:

1) collected monies from the surcharge established in UCA 78A-2-601;

2) monies from the portion of filing fees established in UCA 78A-2-301(1)(j)(iv) and (v); and
3) amounts designated by UCA 78A-7-122(4)(b)(ii).

C. The Administrative Office of the Courts shall use the allocation to contract for court security at all district and juvenile courts throughout the state.


A. The following are the courts of justice of this state:
   1) the Supreme Court;
   2) the Court of Appeals;
   3) the district courts;
   4) the juvenile courts; and
   5) the justice courts.

B. All courts are courts of record, except the justice courts, which are courts not of record.

20. COURTS TO COLLECT AND MAINTAIN DATA – UCA 41-6a-511

A. The state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with this part.

B. 1) Each justice court shall transmit dispositions electronically to the Department of Public Safety in accordance with the requirement for recertification established by the Judicial Council.

   2) Immediately upon filling the requirements under Subsection (2)(a), a justice court shall collect and report the same DUI related data elements collected and maintained by the state courts under Subsection (1).

   3) The department shall maintain an electronic data base for DUI related records and data including the data elements received or collected from the courts under this section.

   4) a) The Commission on Criminal and Juvenile Justice shall prepare an annual report of DUI related data including the following:
        i) the data collected by the courts under Subsections (1) and (2); and
        ii) any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:
            (1) law enforcement;
            (2) adjudication;
            (3) sanction;
            (4) driver license control; and
b) The report shall be provided to the Judiciary and Transportation Interim Committees no later than the last day of October following the end of the fiscal year for which the report is prepared.

21. COURTS TO PROVIDE INFORMATION AND STATISTICAL DATA TO ADMINISTRATOR OF THE COURTS – UCA 78A-2-109

The judges, clerks of the courts, and all other officers, state and local, shall comply with all requests made by the administrator or his assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as may reflect the business transacted by them and the expenditure of public moneys for the maintenance and operation of the judicial system.

22. CREATION – UCA 78A-8-101

There is created a limited jurisdiction division of the district and justice courts designated small claims court.

23. CREATION OF JUSTICE COURTS – CLASSES OF JUSTICE COURTS – UCA 78A-7-102

A. 1) For the purposes of this section, to "create a justice court" means to:

   a) establish a justice court; or

   b) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.

2) For the purposes of this section, if more than one municipality or county is collectively proposing to create a justice court, the class of the justice court shall be determined by the total citations or cases filed within the territorial jurisdiction of the proposed justice court.

B. Municipalities or counties of the first or second class may create a justice court by filing a written declaration with the Judicial Council on or before July 1 at least two years prior to the effective date of the election. Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the court pursuant to UCA 78A-7-103.

C. 1) Municipalities or counties of the third, fourth, or fifth class may create a justice court by demonstrating the need for the court and filing a written declaration with the Judicial Council on or before July 1 at least one year prior to the effective date of the election.

2) A municipality or county establishing a justice court shall demonstrate to the Judicial Council that a justice court is needed. In evaluating the need for a justice court, the Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and any special circumstances.

3) The Judicial Council shall certify the establishment of a justice court pursuant to UCA 78A-7-103, if the Council determines:

   a) a need exists;

   b) the municipality or county has filed a timely application; and
c) the proposed justice court will be in compliance with all of the operating standards established by statute and the Judicial Council.

D. 1) A municipality that has an established justice court may expand the territorial jurisdiction of its justice court by entering into an agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, with one of more other municipalities, or the county in which the municipality exists.

2) A justice court enlarged under this section may not be considered as establishing a new justice court. An expanded justice court shall demonstrate that it will be in compliance with all of the requirements of the operating standards as established by statute and the Judicial Council before the justice court expands.

3) A municipality or county seeking to expand the territorial jurisdiction of a justice court shall notify the Judicial Council:

a) no later than the notice period required in UCA 78A-7-123, when the expanded justice court is a result of the dissolution of one or more justice courts; or

b) no later than 180 days before the expanded court seeks to begin operation when the expanded justice is a result of other circumstances.

4) The Judicial Council shall certify the expansion of a justice court if it determines that the expanded justice court is in compliance with the operating standards established by statute and the Judicial Council.

E. Upon request from a municipality or county seeking to create a justice court, the Judicial Council may shorten the time required between the city's or county's written declaration or election to create a justice court and the effective date of the election.

F. The Judicial Council may by rule provide resources and procedures adequate for the timely disposition of all matters brought before the courts. The administrative office of the courts and local governments shall cooperate in allocating resources to operate the courts in the most efficient and effective manner based on the allocation of responsibility between courts of record and not of record.

24. CREATION OF JUSTICE COURT – NOT OF RECORD – UCA 78A-7-101

A. Under Article VIII, Section 1, Utah Constitution, there is created a court not of record known as the justice court. The judges of this court are justice court judges.

B. Justice courts shall be divided into the following classes:

1) Class I: 501 or more case filings per month;

2) Class II: 201-500 case filings per month;

3) Class III: 61-200 case filings per month; and

4) Class IV: 60 or fewer case filings per month.
A. There is created a 13-member policy board to be known as the "Online Court Assistance Program Policy Board" which shall:

1) identify the subject matter included in the Online Court Assistance Program;
2) develop information and forms in conformity with the rules of procedure and evidence; and
3) advise the Administrative Office of the Courts regarding the administration of the program.

B. The voting membership shall consist of:

1) two members of the House of Representatives designated by the speaker, with one member from each party;
2) two members of the Senate designated by the president, with one member from each party;
3) two attorneys actively practicing in domestic relations designated by the Family Law Section of the Utah State Bar;
4) one attorney actively practicing in civil litigation designated by the Civil Litigation Section of the Utah State Bar;
5) one court commissioner designated by the chief justice of the Utah Supreme Court;
6) one district court judge designated by the chief justice of the Utah Supreme Court;
7) one attorney from Utah Legal Services designated by its director;
8) one attorney from Legal Aid designated by its director; and
9) two persons from the Administrative Office of the Courts designated by the state court administrator.

C. 1) The terms of the members shall be four years and staggered so that approximately half of the board expires every two years.
2) The board shall meet as needed.

D. The board shall select one of its members to serve as chair.

E. A majority of the members of the board constitutes a quorum.

F. 1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

a) UCA 63A-3-106;

b) UCA 63A-3-107; and

c) rules made by the Division of Finance according to UCA 63A-3-106 and 63A-3-107.
3) Compensation and expenses of a member who is a legislator are governed by UCA 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.


A. 1) a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by a judge other than the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to the chief justice of the Supreme Court.

b) i) Unless the allegation is plainly frivolous, the commission shall also immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.

ii) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer the allegation of criminal misconduct to another local or state prosecutor who would not have the same disability or conflict.

iii) The commission may concurrently proceed with its investigation of the complaint without waiting for the resolution of the criminal investigation by the prosecuting attorney.

2) The chief justice of the Supreme Court may place a justice of the Supreme Court, an appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore on administrative leave with or without pay if the chief justice has a reasonable basis to believe that the alleged crime occurred, that the justice of the Supreme Court, appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

B. 1) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court and the local prosecuting attorney in accordance with Subsection (1)(a)(ii).

2) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with or without pay if the two justices have a reasonable basis to believe that the alleged crime occurred, that the chief justice committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

C. 1) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1)
or (2), the appropriate member or members of the Supreme Court as provided in Subsection (1) or (2), shall place the judge on administrative leave with or without pay pending the outcome of the criminal proceeding.

2) The administrator of the courts shall, for the duration of the administrative leave, withhold all employer and employee contributions required under UCA 49-17-301 and 49-18-301.

3) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of administrative leave, and all contributions withheld under Subsection (3)(b) shall be deposited in accordance with UCA 49-17-301 and 49-18-301.

D. The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave shall order the reinstatement of the judge:

1) if the prosecutor to whom the allegations are referred by the commission determines no charge or indictment should be filed; or

2) after final disposition of the criminal case, if the judge is not convicted of a criminal charge and if the commission has not ordered the removal of the judge.

27. DAYS ON WHICH COURT CLOSED – EXCEPTIONS – UCA 78A-2-212

Judicial business on Sunday, on any day on which general election is held, or on any legal holiday, is limited to the following purposes:

A. to give, upon their request, instructions to a jury when deliberating on their verdict;

B. to receive a verdict or discharge a jury;

C. for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature;

D. judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

28. DETERMINATION OF COMPENSATION AND LIMITS – SALARY SURVEY – LIMITS ON SECONDARY EMPLOYMENT – UCA 78A-7-206

A. Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.

1) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 50% or more than 90% of a district court judge's salary.

2) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:

   a) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).
b) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.

c) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).

3) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.

4) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.

5) A justice court judge employed by more than one entity as a justice court judge, may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.

B. A justice court judge may not appear as an attorney in any:

1) justice court;

2) criminal matter in any federal, state, or local court; or

3) juvenile court case involving conduct which would be criminal if committed by an adult.

C. A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

D. A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

E. A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

F. The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

29. DISPOSITION OF FINES – UCA 78A-7-120

A. Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes, or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

B. 1) For violation of Title 23, Wildlife Resources Code, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.
2) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

C. The surcharge established by UCA 51-9-401 shall be paid to the state treasurer.

D. Fines, fees, court costs, and forfeitures collected by a municipal or county justice court a violation of UCA 72-7-404 or UCA 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

E. Revenue deposited in the class B and C road account pursuant to Subsection (4) is supplemental to the money appropriated under UCA 72-2-107 but shall be expended in the same manner as other class B and C road funds.

F. 1) Fines and forfeitures collected by the court for a second or subsequent violation under UCA 41-6a-1713 or UCA 72-7-409(8)(b) shall be remitted:
   a) 60% to the state treasurer to be deposited in the Transportation Fund; and
   b) 40% in accordance with Subsection (1).

2) Fines and forfeitures collected by the court for a second or subsequent violation under UCA 72-7-409(8)(c) shall be permitted:
   a) 50% to the state treasurer to be deposited in the Transportation Fund; and
   b) 50% in accordance with Subsection (1).

30. DISQUALIFICATION FOR INTEREST OR RELATION TO PARTIES – UCA 78A-2-222

A. Except by consent of all parties, a justice, judge, or justice court judge may not sit or act in any action or proceeding:
   1) to which he is a party, or in which he is interested
   2) when he is related to either party by consanguinity or affinity within the third degree, computed according to the rules of the common law
   3) when he has been attorney or counsel for either party in the action or proceeding

B. The provisions of this section do not apply to the arrangement of the calendar or the regulation of the order of business, nor to the power of transferring the action or proceeding to some other court.

31. DISSOLUTION OF JUSTICE COURTS – UCA 78A-7-123

A. 1) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.

2) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.
3) The municipality or county shall provide notice to the Judicial Council.

4) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.

5) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.

B. 1) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.

2) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.

3) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.

C. Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

32. EFFECT OF FILING AFFIDAVIT – NONPRISONER – UCA 78A-2-304

A. Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be waived entirely or in part. Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.

B. In instances where fees or costs are completely waived, the court shall immediately file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or defense of the cause, for the impecunious person as if all the necessary fees and costs had been fully paid.

C. However, in cases where an impecunious affidavit is filed, the judge shall question the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or decree not be entered in favor of that person until the costs are paid. The order may be cancelled later upon petition if the facts warrant cancellation.

33. EFFECT OF FILING AFFIDAVIT – PROCEDURE FOR REVIEW AND COLLECTION – UCA 78A-2-305

A. 1. Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.

2. The incarcerating facility shall:
a) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and

b) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.

B. The court shall:

1) review both the affidavit of impecuniosity and the financial account statement; and

2) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.

C. When the court concludes that the prisoner is unable to pay full fees and costs, the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.

D. 1) After payment of the initial partial filing fee, the court shall require the prisoner to make monthly payments of 20% of the preceding month's aggregate disposable income until the regular filing fee associated with the civil action is paid in full.

2) The agency having custody of the prisoner shall:

a) garnish the prisoner's account each month; and

b) once the collected fees exceed $10, forward payments to the clerk of the court until the filing fees are paid.

3) Nothing in this section may be construed to prevent the agency having custody of the prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.

E. Collection of the filing fees continues despite dismissal of the action.

F. The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action.

G. If the prisoner is filing an initial divorce action or an action to obtain custody of the prisoner's children, the following procedures shall apply for review and collection of fees and costs:

1) Upon filing an oath or affirmation with any Utah court by a prisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be paid in full or be waived in whole or in part. The court shall require a full or partial filing fee when the prisoner's financial information demonstrates an ability to pay the applicable court fees or costs.

2) a) If a prisoner's court fees or costs are completely waived, and if the prisoner files an appeal, the court shall immediately file any complaint or papers on appeal and complete all necessary action as promptly as if the litigant had paid all the fees and costs in full.
b) If a prisoner is impecunious, the constable and sheriff may immediately serve all
summonses, writs, process and subpoenas, and papers necessary in the prosecution or
defense of the cause as if all necessary fees and costs had been paid in full.

3) a) If a prisoner files an affidavit of impecuniosity, the judge shall question the prisoner at the
time of the hearing on the merits of the case as to the prisoner's ability to pay.

b) If the judge determines that the prisoner is reasonable able to pay court fees and costs,
the final order or decree shall be entered, however the prisoner may not seek
enforcement or modification of the decree or order until the prisoner has paid the fees or
costs in full.

c) A judge may waive the restrictions placed on the prisoner in Subsection (7)(c)(ii) upon a
showing of good cause.

34. ENGLISH LANGUAGE USED FOR PROCEEDINGS – UCA 78A-2-206

Judicial proceedings shall be conducted in the English language.

35. EXCHANGE – INFORMATION

EXCHANGE is an electronic information counter to the Utah State Courts. With the use of a computer, modem,
and communication software, you can view and retrieve information from courts throughout the state. For further
information contact:

Information Services, Administrative Office of the Courts Phone: (801) 578-3850.

36. EXPENSES FOR EXPERT WITNESSES – UCA 78B-1-151

A. The court may appoint any expert witness agreed upon by the parties or of its own selection. The
court shall inform the expert of required duties in writing and a copy shall be filed with the court record.

B. The appointed expert shall advise the court and the parties of findings and may be called to testify by
the court or by any party. The expert witness is subject to cross-examination by each party.

C. The court shall determine the reasonable compensation of the expert and order payment. The parties
may call expert witnesses of their own at their own expense. Upon a showing that a defendant is
financially unable to pay the compensation of an expert whose services are necessary for an adequate
defense, the compensation shall be paid as if the expert were called on behalf of the prosecution.

D. Payment by the court for an expert witness in a criminal case is limited to the fee and mileage allowance
for witnesses under UCA 78B-1-119 and necessary meals and lodging expenses as provided by rule of
the Judicial Council. Compensation of an expert witness beyond the statutory fee and mileage allowance
shall be paid by the parties under Subsection (3).

37. FAILURE TO SERVE PAPERS – PENALTY – UCA 78A-2-308

Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a class B
misdemeanor.
A. Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:

1) $10 for a single garnishment; and
2) $25 for a continuing garnishment.

B. The creditor shall pay the fee directly to the garnishee.

C. If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed $1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.

D. The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished, and the defendant were the same individual:

1) similarities between the person and the actual judgment debtor, including:
   a) the spelling of each person's name;
   b) addresses;
   c) physical descriptions;
   d) identifying information, including Social Security number or driver license number; and
   e) family status;
2) whether previous contact was made to determine whether the person was the judgment debtor;
3) how the determination of who the judgment debtor was, was made; and
4) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.

E. An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within ten days. The response shall indicate whether or not the defendant identified in the documentation is a current employee.

F. A plaintiff is not liable for a violation of Subsection (3) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.
39. FILING FEE CHALLENGE – COURT POWERS – UCA 78A-2-307

A. Within ten days of receiving court notice requiring an initial filing fee under UCA 78A-2-306, the litigant may contest the fee assessment by filing a memorandum and supporting documentation with the court demonstrating inability to pay the fee.

B. The court shall review the memorandum and supporting documents challenging the fee assessment for facial validity.

C. The court may reduce the initial filing fee, authorize service of process, or otherwise proceed with the action without prepayment of costs and fees if the memorandum shows the litigant:

1) has lost his source of income;

2) has unaccounted nondiscretionary expenses limiting his ability to pay;

3) will suffer immediate irreparable harm if the action is unnecessarily delayed; or

4) will otherwise lose the cause of action by unnecessary delays associated with securing funds necessary to satisfy the assessed filing fee.

D. Nothing in this section shall be construed to relieve the litigant from the ongoing obligation of monthly payments until the filing fee is paid in full.

40. FINDER PROGRAM - INFORMATION

A process through which courts in cooperation with the Division of Finance identifies those debtors who may be receiving an individual income tax refund, a corporate franchise tax refund, or a vendor payment that can be offset against, collected, and applied towards the satisfaction of debts owed. It is a voluntary program that has proven to be cost effective in the collection of delinquent accounts owed to the state or an agency of the state. Debts may be submitted on diskettes, magnetic tape, or manually. For more information contact:

Division of Finance, Finder Program
1135 State Office Building
Salt Lake City UT 84114
Carol Young - (801) 538-3200

41. FOOD ALLOWANCE FOR JURORS – SEQUESTRATION COSTS – UCA 78B-1-111

Jurors may be provided with a reasonable food allowance under the rules of the Judicial Council. When a jury has been placed in sequestration by order of the court, the necessary expenses for food and lodging shall be provided under the rules of the Judicial Council.

42. FUNDS COLLECTED – DEPOSITS AND REPORTS – SPECIAL ACCOUNTING – ACCOUNTING – UCA 78A-7-121

A. 1) Justice courts shall deposit public funds in accordance with UCA 51-4-2.

2) The city or county treasurer shall report to the city recorder or county auditor, as appropriate, the sums collected and deposited. The recorder or auditor shall then apportion and remit the collected proceeds as provided in UCA 78A-7-120.
B. Money received or collected on any civil process or order issued from a justice court shall be paid within seven days to the party entitled or authorized to receive it.

C.  

1) With the approval of the governing body a trust or revolving account may be established in the name of the justice court and the treasurer for the deposit of money collected including bail, restitution, unidentified receipts, and other money that requires special accounting.

2) Disbursements from this account do not require the approval of the auditor, recorder, or governing body.

3) The account shall be reconciled at least quarterly by the auditor of the governing body.

43. GROUNDS FOR DETAINING DEFENDANT WHILE APPEALING THE DEFENDANT'S CONVICTION – CONDITIONS FOR RELEASE WHILE ON APPEAL – UCA 77-20-10

A. The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

1) the appeal raises a substantial question of law or fact likely to result in:
   a) reversal;
   b) an order for a new trial; or
   c) a sentence that does not include a term of imprisonment in jail or prison.

2) the appeal is not for the purpose of delay; and

3) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

B. If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to conditions that result in the least restrictive condition or combination of conditions that the court determines will reasonably assure the appearance of the person as required and the safety of any other person and the community. The conditions may include that the defendant:

1) post appropriate bail;

2) execute a bail bond with a bail bond surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to assure the appearance of the defendant as required;

3) a) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to assure the appearance of the defendant; and

   b) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;

4) not commit a federal, state, or local crime during the period of release;
remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;

6) maintain employment, or if unemployed, actively seek employment;

7) maintain or commence an educational program;

8) abide by specified restrictions on personal associations, place of abode, or travel;

9) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;

10) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;

11) comply with a specified curfew;

12) not possess a firearm, destructive device, or other dangerous weapon;

13) not use alcohol, or any narcotic drug or other controlled substances except as prescribed by a licensed medical practitioner;

14) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the supervision of or in a specified institution if required for that purpose;

15) return to custody for specified hours following release for employment, schooling, or other limited purposes;

16) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required and to assure the safety of any other person and the community; and

17) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years of age or younger, is limited or denied access to any location or occupation where children are, including but not limited to:

   a) any residence where children are on the premises;

   b) activities, including organized activities, in which children are involved; and

   b) locations where children congregate, or where a reasonable person should know that children congregate.

C. The court may, in its discretion, amend an order granting release to impose additional or different conditions of release.

D. If defendant has been found guilty of an offense in a court not of record and files a timely notice of appeal pursuant to UCA 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence,
unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

E. If a stay is ordered, the court may order post-conviction restrictions on the defendant’s conduct as appropriate, including:

1) continuation of any pre-trial restrictions or orders;

2) sentencing protective orders under UCA 77-36-5.1;

3) drug and alcohol use;

4) use of an ignition interlock; and

5) posting appropriate bail.

F. The provisions of Subsections (4) and (5) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

G. Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by the district court.

44. GROUNDS FOR REPRIMAND, CENSURE, SUSPENSION, REMOVAL, OR INVOLUNTARY RETIREMENT OF JUSTICE COURT JUDGE – SUSPENSION – UCA 78A-11-105

A. The commission may issue an order, subject to the Supreme Court’s review and issuance of a final order implementing, rejecting, or modifying the commission’s order, that any judge be reprimanded, censured, suspended, removed from office, or involuntarily retired, for:

1) action which constitutes willful misconduct in office;

2) final conviction of a crime punishable as a felony under state or federal law;

3) willful and persistent failure to perform judicial duties;

4) disability that seriously interferes with the performance of judicial duties; or

5) conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

B. In addition to the reasons specified in Subsection (1), the Supreme Court shall order the reprimand, censure, suspension, removal, or involuntary retirement of any justice court judge who fails to obtain and maintain certification from the Judicial Council for attendance at required judicial training courses or who fails to meet the minimum requirements for office, including residency.

C. 1) The Supreme Court may, on its own motion, suspend or remove a judge from office if the judge:

a) develops a physical or mental disability that seriously interferes with the performance of his judicial duties as provided in the Utah Constitution, Article VIII, Section 13, Paragraph 4;

b) becomes unqualified to hold the judicial office as provided in the Utah Constitution, Article VIII, Sections 7 and 10, and UCA 78A-2-221; or
d) brings the judicial office into disrepute by engaging in conduct prejudicial to the administration of justice as provided in the Utah Constitution, Article VIII, Section 13, Paragraph 5.

D. The Supreme Court shall provide notice to the judge and an opportunity to be heard.

45. IMPECUNIOUS LITIGANTS – AFFIDAVIT – UCA 78A-2-302

A. For purposes of UCA 78A-2-302 through UCA 78A-2-309:

1) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest, and conviction of any crime or offense.

2) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

B. As provided in this chapter, any person may institute, prosecute, defend, and appeal any cause in any court in this state without prepayment of fees and costs or security, by taking and subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity demonstrating financial inability to pay fees and costs or give security.

C. The affidavit shall contain complete information on the party’s:

1) identity and residence;
2) amount of income, including government financial support, alimony, child support;
3) assets owned, including real and personal property;
4) business interests;
5) accounts receivable;
6) securities, checking and savings account balances;
7) debts; and
8) monthly expenses.

D. If the party is a prisoner, he shall also disclose the amount of money held in his prisoner trust account at the time the affidavit is executed as provided in UCA 78A-2-305.

E. In addition to the financial disclosures, the affidavit shall state the following:

I, ______________________, do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

46. INVOLUNTARY DISABILITY RETIREMENT OR REMOVAL OF A JUDGE – UCA 78A-11-108

A. The commission shall recommend and issue an order for the removal or involuntary retirement of a judge of any court of this state, in accordance with the procedure outlined in this section, for a disability that
The commission shall order a medical examination and report.

The commission in recommending an order of involuntary retirement or removal of a judge for a disability, shall base it on the evaluation and recommendations submitted by one or more medical examiners or physicians, including an examination of essential statements submitted by either bar or judicial associations or committees certifying that:

1) the judge acquires a physical or mental disability and this disability seriously interferes with the performance of the judge's judicial duties; and

2) the judge's incapacity is likely to continue and be permanent and that the judge should be involuntarily retired or removed.

The Supreme Court shall review the commission's proceedings as to both law and fact and may permit the introduction of additional evidence.

After its review, the Supreme Court shall issue its order implementing, rejecting, or modifying the commission's order.

Retirement or involuntary retirement as provided in this chapter shall be processed through the Utah State Retirement Office, and the judge retiring shall meet the requirements for retirement as specified in this chapter.

Upon an order for involuntary retirement, the judge shall retire with the same rights and privileges as if the judge retired pursuant to statute.

**JUDGES TO BE APPOINTED – PROCEDURE – RETENTION – UCA 78A-7-202**

As used in this section:

1) "Local government executive" means:

a) for a county:

i) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

ii) the county executive in a county operating under the county executive-council form of county government; and

iii) the county manager in a county operating under the council-manager form of county government; and

b) for a city or town:

i) the mayor of the city or town; or

ii) the city manager, in the council-manager form of government described in UCA 10-3b-103(6).
2) "Local legislative body" means:
   a) for a county, the county commission or county council; and
   b) for a city or town, the council of the city or town.

B. There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

1) Membership of the justice court nominating commission shall be as follows:
   a) one member appointed by:
      i) the county commission if the county has a county commission form of government; or
      ii) the county executive if the county has an executive-council form of government;
   b) one member appointed by the municipalities in the counties as follows:
      i) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or
      ii) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality in the county;
   c) one member appointed by the county bar association; and
   d) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

2) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

3) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

4) The nominating commission shall submit at least two names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

5) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

C. Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, and other appropriate means.
D. Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

E. Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

F. The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

48. JUDICIAL APPOINTEES – RETENTION ELECTIONS – UCA 20A-12-201

A. 1) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

2) After the first retention election:

a) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

b) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

B. 1) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

a) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate’s county of residence, within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election; and

b) pay a filing fee of $50.

2) a) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate’s county of residence, within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election; and

ii) pay a filing fee of $25 for each judicial office.

b) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

c) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

C. 1) The lieutenant governor shall, no later than August 31 of each regular general election year:
a) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

b) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

2) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

D. 1) At the general election, the ballots shall contain, as to each justice or judge of any court to be voted on in the county, the following question:

"Shall (name of justice or judge) be retained in the office of [name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)""

Yes ( )
No ( )."

2) If a justice court exists by means of an interlocal agreement under UCA 78A-7-102, the ballot question for the judge shall include the name of that court.

E. 1) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

2) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

F. A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

G. If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.

49. JUDICIAL COUNCIL — CREATION — MEMBERS — TERMS AND ELECTION — RESPONSIBILITIES — REPORTS — GUARDIAN AD LITEM OVERSIGHT COMMITTEE — UCA 78A-2-104

A. The Judicial Council, established by Utah Constitution, Article VIII, Section 12, shall be composed of:

1) the chief justice of the Supreme Court;

2) one member elected by the justices of the Supreme Court;

3) one member elected by the judges of the Court of Appeals;
4) five members elected by the judges of the district courts;
5) two members elected by the judges of the juvenile courts;
6) three members elected by the justice court judges; and
7) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.

B. The Judicial Council shall have a seal.

C. 1) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.
2) All members of the council shall serve for three-year terms.
   a) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.
   b) In courts having more than one member, the members shall be elected to staggered terms.
   c) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.
3) Elections shall be held under rules made by the Judicial Council.

D. The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the administrator. The council has authority and responsibility to:

1) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and
2) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

E. The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.

F. The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.

G. 1) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.
2) The vehicles shall be marked in a manner consistent with UCA 41-1a-407 and may be assigned for unlimited use, within the state only.

H. 1) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.

2) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

3) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

I. 1) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

2) These procedures shall be developed in accordance with UCA 78A-2-107(10) regarding temporary appointment of judges.

J. The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record.

K. The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the administrative office of the courts or whether the administrative office of the courts should contract with local government for court support services.

L. The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

M. 1) The Judicial Council shall:

   a) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6, Part 9, Guardian Ad Litem; and

   b) establish and supervise a Guardian Ad Litem Oversight Committee.

2) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

N. The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

50. JUDICIAL COUNCIL TO APPROVE COURT SEALS – UCA 78A-2-204

The Judicial Council shall approve a seal for all courts of justice.
A. Beginning with the 2012 judicial retention elections, the commission shall prepare a performance evaluation for:

1) each judge in the third and fifth year of the judge's term if the judge is not a justice of the Supreme Court; and

2) each justice of the Supreme Court in the third, seventh, and ninth year of the justice's term.

B. Except as provided in Subsection (3), the performance evaluation for a judge under Subsection (1) shall consider only:

1) the results of the judge's most recent judicial performance survey that is conducted by a third party in accordance with UCA 78A-12-204;

2) information concerning the judge's compliance with minimum performance standards established in accordance with UCA 78A-12-205;

3) courtroom observation;

4) the judge's judicial disciplinary record, if any;

5) public comment solicited by the commission;

6) information from an earlier judicial performance evaluation concerning the judge; and

7) any other factor that the commission:

   a) considers relevant to evaluating the judge's performance for the purpose of a retention election; and

   b) establishes by rule.

C. The commission shall make rules concerning the conduct of courtroom observation under Subsection (2), which shall include the following:

1) an indication of who may perform the courtroom observation;

2) a determination of whether the courtroom observation shall be made in person or may be made by electronic means; and

3) a list of principles and standards used to evaluate the behavior observed.

D. As part of the evaluation conducted under this section, the commission shall determine whether to recommend that the voters retain the judge.

   a) If a judge meets the minimum performance standards established in accordance with UCA 78A-12-205 there is a rebuttable presumption that the commission will recommend the voters retain the judge.
b) If a judge fails to meet the minimum performance standards established in accordance with UCA 78A-12-205 there is a rebuttable presumption that the commission will recommend the voters not retain the judge.

c) The commission may elect to make no recommendation on whether the voters should retain a judge if the commission determines that the information concerning the judge is insufficient to make a recommendation.

d) If the commission deviates from a presumption for or against recommending the voters retain a judge or elects to make no recommendation on whether the voters should retain a judge, the commission shall provide a detailed explanation of the reason for that deviation or election in the commission’s report under UCA 78A-12-206.

e) If the commission makes no recommendation because of a tie vote, the commission shall note that fact in the commission's report.

E. 1) Before considering the judicial performance evaluation of any judge, the commission shall notify the judge of the date and time of any commission meeting during which the judge's judicial performance evaluation will be considered.

2) The commission shall allow a judge who is the subject of a judicial performance evaluation to appear and speak at any commission meeting, except a closed meeting, during which the judge's judicial performance evaluation is considered.

3) The commission may meet in a closed meeting to discuss a judge's judicial performance evaluation by complying with Title 52, Chapter 4, Open and Public Meetings Act.

4) Any record of an individual commissioner's vote on whether or not to recommend that the voters retain a judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

5) The commission may only disclose the final commission vote on whether or not to recommend that the voters retain a judge.

F. 1) The commission shall compile a midterm report of its judicial performance evaluation of a judge.

2) The midterm report of a judicial performance evaluation shall include information that the commission considers appropriate for purposes of judicial self-improvement.

3) The report shall be provided to the evaluated judge and the presiding judge of the district in which the evaluated judge serves. If the evaluated judge is the presiding judge, the midterm report shall be provided to the chair of the board of judges for the court level on which the evaluated judge serves.

G. The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the evaluation required by this section.

52. JUDICIAL PERFORMANCE SURVEY – UCA 78A-12-204

A. The judicial performance survey required by UCA 78A-12-203 concerning a judge who is subject to a retention election shall be conducted on an ongoing basis during the judge's term in office by a third party under contract to the commission.
B. The judicial performance survey shall include as respondents a sample of each of the following groups as applicable:

1) attorneys who have appeared before the judge as counsel;

2) jurors who have served in a case before the judge; and

3) court staff who have worked with the judge.

C. The commission may include an additional classification of respondents if the commission:

1) considers a survey of that classification of respondents helpful to voters in determining whether to vote to retain a judge; and

2) establishes the additional classification of respondents by rule.

D. All survey responses are anonymous, including comments included with a survey response.

E. If the commission provides any information to a judge or the Judicial Council, the information shall be provided in such a way as to protect the confidentiality of a survey respondent.

F. A survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appears in the judge's court is closed, exclusive of any appeal, except for court staff and attorneys, who may be surveyed at any time during the survey period.

G. Survey topics shall include questions concerning a judge's:

1) legal ability, including the following:

   a) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

   b) attentiveness to factual and legal issues before the court;

   c) adherence to precedent and ability to clearly explain departures from precedent; and

   d) grasp of the practical impact on the parties of the judge's rulings, including the effect of delay and increased litigation Expense;

   e) ability to write clear judicial opinions; and

   f) ability to clearly explain the legal basis for judicial opinions;

2) judicial temperament and integrity, including the following:

   a) demonstration of courtesy toward attorneys, court staff, and others in the judge's court;

   b) maintenance of decorum in the courtroom;

   c) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

   d) preparedness for oral argument;
e) avoidance of impropriety or the appearance of impropriety;
f) display of fairness and impartiality toward all parties; and

g) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions, and;

3) administrative performance, including the following:
   a) management of workload;
   b) sharing proportionally the workload within the court or district; and
   c) issuance of opinions and orders without unnecessary delay.

H. If the commission determines that a certain survey question or category of questions is not appropriate for a respondent group, the commission may omit that question or topic from the survey provided to that respondent group.

I. 1) The survey shall allow respondents to indicate responses in a manner determined by the commission, which shall be:
   a) on a numerical scale from one to five, with one representing inadequate performance and five representing outstanding performance; or
   b) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.

2) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the commission may allow respondents to provide written comments.

J. The commission shall compile and make available to each judge that judge's survey results with each of the judge's judicial performance evaluations.

K. The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the judicial performance survey.

53. JURISDICTION – UCA 78A-7-106

A. Justice courts have jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 18 years of age or older.

B. Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have jurisdiction over the following class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 16 years of age or older:

1) Title 23, Wildlife Resources Code of Utah;
2) Title 41, Chapter 1a, Motor Vehicle Act;
3) Title 41, Chapter 6a, Traffic Code;
4) Title 41, Chapter 12a, Motor Vehicle Financial Responsibility Act;
5) Title 41, Chapter 22, Off-Highway Vehicles;

6) Title 73, Chapter 18, Safe Boating Act;

7) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

8) Title 73, Chapter 18b, Water Safety; and

9) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

C. Justice Courts have jurisdiction over class C misdemeanor violations of Title 53, Chapter 3, Part 2, Driver Licensing Act.

D. As used in this section, "the court's jurisdiction" means the territorial jurisdiction of a justice court.

E. An offense is committed within the territorial jurisdiction of a justice court if:

1) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

2) either a person committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

3) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

4) a person commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

5) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in the planning or commission of an offense within the court's jurisdiction;

6) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

   a) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

   b) i) the offense is committed on or in any body of water bordering on within this state if the territorial limits of the justice court are adjacent to the body of water; and

      ii) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

   c) a person who commits theft exercises control over the affected property within the court's jurisdiction; or

   d) the offense is committed on or near the boundary of the court's jurisdiction;

   e) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

   f) jurisdiction is otherwise specifically provided by law.
F. A justice court judge may transfer a criminal matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the [child] minor would be served by the continuing jurisdiction of the juvenile court.

G. Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

54. JURISDICTION OF DISTRICT AND JUSTICE COURTS – [UCA 53B-3-109]

Any district court or any justice court of any city or county in which property owned or controlled by a state institution of higher education is located has jurisdiction to hear and determine cases involving an alleged violation of this chapter.

55. JURORS AND WITNESSES – FEES AND MILEAGE – [UCA 78B-1-119]

A. Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:

1) $18.50 for the first day of attendance and $49 per day for each subsequent day of attendance; and

2) if traveling more than 50 miles, $1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.

B. Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.

C. A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.

D. If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under [UCA 77-21-3].

E. A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.

F. A witness subpoenaed to testify in court proceedings in a civil action shall receive reimbursement for necessary and reasonable parking expenses from the attorney issuing the subpoena under rule of the Judicial Council or Supreme Court.

G. There is created within the General Fund, a restricted account known as the CASA Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in $18.50 or $49 increments. The Legislature shall annually appropriate money from the CASA Volunteer Account to the Administrative Office of the Courts for the purpose of recruiting, training, and supervising volunteers for the Court Appointed Special Advocate program established pursuant to [UCA 78A-6-902].

56. JURORS AND WITNESSES – STATE PAYMENT FOR JURORS AND SUBPOENAED PERSONS – APPROPRIATIONS AND COSTS – EXPENSES IN JUSTICE COURT – [UCA 78B-1-117]

A. The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the
courts of record and actions in the juvenile court. The state is responsible for payment of all fees and
expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council
shall receive an annual appropriation contained in a separate line item appropriation.

B If expenses, for the purposes of this section, exceed the line item appropriation, the administrator of the
courts shall submit a claim against the state to the Board of Examiners and request the board to
recommend and submit a supplemental appropriation request to the Legislature for the deficit incurred.

C In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution
witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the
municipality if the action is prosecuted by the city attorney, and by the county if the action is prosecuted
by the county attorney or district attorney.

D Beginning July 1, 2014, the administrator of the courts shall provide a report during each interim to the
Executive Offices and Criminal Justice Appropriations Subcommittee detailing expenses, trends, and
efforts made to minimize expenses and maximize performance of the costs under this section.

E The funding of additional full-time equivalent employees shall be authorized by the Legislature through
specific intent language.

57. JURY FEE ASSESSMENTS – PAYMENT – UCA 78B-1-114

A. The court has discretionary authority in any civil or criminal action or proceeding to assess the entire
cost of one day's juror fees against either the plaintiff or defendant or their counsel, or to divide the cost
and assess them against both plaintiff and defendant or their counsel, or additional parties plaintiff or
defendant, if:

1) A jury demand has been made and is later withdrawn within the 48 hours preceding the
commencement of the trial; or

2) The case is settled or continued within 48 hours of trial without just cause for not having settled
or continued the case prior to the 48-hour period.

B. The party assessed shall make payment to the clerk of the court within a prescribed period.
Payment shall be enforced by contempt proceedings.

C. The court clerk shall transfer the assessment to the auditor of the city incurring the juror expenses.

58. JUSTICE COURT JUDGE ELIGIBILITY – MANDATORY RETIREMENT – UCA 78A-7-201

A. A justice court judge shall be:

1) a citizen of the United States;

2) 25 years of age or older;

3) a resident of Utah for at least three years immediately preceding his appointment;

4) a resident of the county in which the court is located or an adjacent county for at least six
months immediately preceding appointment; and

5) a qualified voter of the county in which the judge resides.
B. Justice court judges are not required to be admitted to practice law in the state as a qualification to hold office but shall have at the minimum a diploma of graduation from high school or its equivalent.

C. A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.

D. Justice court judges shall retire upon attaining the age of 75 years.

59. JUSTICES AND JUDGES – LIMITATIONS DURING TERMS – UCA 78A-2-221

A justice or judge of any court of record may not, during his term of office:

A. practice law or have a partner engaged in the practice of law;

B. hold office in or make any contribution to any political party or organization engaged in political activity; or

C. use, in his efforts to obtain or retain judicial office, any political party designation, reference, or description.

60. JUSTICE COURT TECHNOLOGY, SECURITY, AND TRAINING ACCOUNT ESTABLISHED – FUNDING – USES – UCA 78A-7-301

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

A. The state treasurer shall deposit in the account money collected from the surcharge established in UCA 78A-7-122(4)(b)(iii).

B. Money shall be appropriated from the account to the Administrative Office of the Courts to be used for audit, technology, security, and training needs in justice courts throughout the state.

61. LIABILITY FOR FEES IF SUCCESSFUL IN LITIGATION – UCA 78A-2-309

Nothing in this part shall prevent a justice court judge, clerk, constable, or sheriff from collecting his or her regular fees for all services rendered for the impecunious person, in the event the person is successful in litigation. All fees and costs shall be regularly taxed and included in any judgment recovered by the person. The fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff. If the person fails in the action or appeal, then the costs of the action or appeal shall be adjudged against the person.

62. MINIMUM PERFORMANCE STANDARDS (JUDGE) – UCA 78A-12-205

A. The commission shall establish a minimum performance standard requiring that:

1) the judge have no more than one public reprimand issued by the Judicial Conduct Commission or the Utah Supreme Court during the judge's current term; and

2) the judge receive a minimum score on the judicial performance survey as follows:

   a) an average score of no less than 65% on each survey category as provided in UCA 78A-12-204(7); and
if the commission includes a question on the survey that does not use the numerical scale, the commission shall establish the minimum performance standard for all questions that do not use the numerical scale to be substantially equivalent to the standard required under Subsection (1)(b)(i).

B. The commission may establish an additional minimum performance standard if the commission by at least two-thirds vote:

1) determines that satisfaction of the standard is necessary to the satisfactory performance of the judge; and

2) adopts the standard.

C. The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a minimum performance standard.

63. MINIMUM STANDARDS OF JUSTICE COURTS – AUTHORITY OF JUDICIAL COUNCIL OVER JUSTICE COURTS – UCA 78A-7-103

A. The Judicial Council shall ensure that:

1) procedures include requirements that every municipality or county that establishes or maintains a justice court provide for the following minimum operating standards:

a) a system to ensure the justice court records all proceedings with a digital audio recording device and maintains the audio recordings for a minimum of one year;

b) sufficient prosecutors to perform the prosecutorial duties before the justice court;

c) adequate funding to defend all persons charged with a public offense who are determined by the justice court to be indigent under Title 77, Chapter 32, Indigent Defense Act;

d) sufficient local peace officers to provide security for the justice court and to attend to the justice court when required;

e) sufficient clerical personnel to serve the needs of the justice court;

f) sufficient funds to cover the cost of travel and training expenses of clerical personnel and judges at training sessions mandated by the Judicial Council;

g) adequate courtroom and auxiliary space for the justice court, which need not be specifically constructed for or allocated solely for the justice court when existing facilities adequately serve the purposes of the justice court; and

h) for each judge of its justice court, a current copy of the Utah Code, the Utah Court Rules Annotated, the justice court manual published by the state court administrator, the county, city, or town ordinances as appropriate, and other legal reference materials as determined to be necessary by the judge; and

B. the Judicial Council's rules and procedures shall:
1) presume that existing justice courts will be recertified at the end of each four-year term if the court continues to meet the minimum requirements for the establishment of a new justice court; or

2) authorize the Judicial Council, upon request of a municipality or county or upon its own review, when a justice court does not meet the minimum requirements, to:
   a) decline recertification of a justice court;
   b) revoke the certification of a justice court;
   c) extend the time for a justice court to comply with the minimum requirements; or
   d) suspend rules of the Judicial Council governing justice courts, if the council believes suspending those rules is the appropriate administrative remedy for the justice courts of this state.

64. MONTHLY REPORTS TO COURT ADMINISTRATOR AND GOVERNING BODY – UCA 78A-7-215
   A. Every justice court shall file monthly with the state court administrator a report of the judicial business of the judge. The report shall be on forms supplied by the state court administrator.
   B. The report shall state the number of criminal and small claims actions filed, the dispositions entered, and other information as specified in the forms.
   C. A copy of the report shall be furnished by the justice court to the person or office in the county, city, or town designated by the governing body to receive the report.

65. NOTICE OF FILING FEE – CONSEQUENCE OF NONPAYMENT – UCA 78A-2-306
   A. When an affidavit of impecuniosity has been filed and the court assesses an initial filing fee, the court shall immediately notify the litigant in writing of:
      1) the initial filing fee required as a prerequisite to proceeding with the action;
      2) the procedure available to challenge the initial filing fee assessment as provided in UCA 78A-2-307; and
      3) the inmate’s ongoing obligation to make monthly payments until the entire filing fee is paid.
   B. The court may not authorize service of process or otherwise proceed with the action, except as provided in UCA 78A-2-307, until the initial filing fee has been completely paid to the clerk of the court.

66. OFFICES OF JUSTICE COURT JUDGES – UCA 78A-7-204
   A. Justice court judges holding office in:
      1) county precincts are county justice court judges; and
      2) cities or towns are municipal justice court judges.
   B. The county legislative body may establish a single precinct or divide the county into multiple precincts to create county justice courts for public convenience.
C. 1) The governing body may create as many judicial positions as are required for the efficient 
administration of a justice court.

2) If more than one judge is assigned to a court, all filings within that court shall be assigned to the 
judges at random unless the governing body has been authorized to create specialized judicial calendars to serve the interests of justice.

67. ONLINE COURT ASSISTANCE PROGRAM – PURPOSE OF PROGRAM – USER'S FEE – UCA 78A-2-
501

A. There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

1) uncontested divorces;
2) enforcement of orders in the divorce decree;
3) landlord and tenant actions;
4) guardianship actions; and
5) other types of proceedings approved by the Online Court Assistance Program Policy Board.

B. The purpose of the online court assistance program shall be to:

1) minimize the costs of civil litigation;
2) improve access to the courts; and
3) provide for informed use of the courts and the law by pro se litigants.

C. 1) An additional $20 shall be added to the filing fee established by UCA 78A-2-301 and 78A-2-301.5 
if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

2) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fees collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

D. The Administrative Office of the Courts shall provide on the front page of the Online Court Assistance Program website a listing of all forms and proceedings available to all pro se litigants within the program.

68. POWERS OF EVERY COURT – UCA 78A-2-201

Every court has authority to:

A. preserve and enforce order in its immediate presence;
B. enforce order in the proceedings before it, or before a person authorized to conduct a judicial investigation under its authority;

C. provide for the orderly conduct of proceedings before it or its officers;

D. compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in a pending action or proceeding;

E. control in furtherance of justice the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it in every matter;

F. compel the attendance of persons to testify in a pending action or proceeding, as provided by law;

G. administer oaths in a pending action or proceeding, and in all other cases where necessary in the exercise of its authority and duties;

H. amend and control its process and orders to conform to law and justice;

I. devise and make new process and forms of proceedings, consistent with law, necessary to carry into effect its authority and jurisdiction; and

J. enforce rules of the Supreme Court and Judicial Council.

69. POWERS OF EVERY JUDICIAL OFFICER – CONTEMPT – UCA 78A-2-218

Every judicial officer has power:

A. to preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;

B. to compel obedience to his lawful orders as provided by law;

C. to compel the attendance of persons to testify in a proceeding before him in the cases and manner provided by law;

D. to administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties; and

E. punish for contempt as provided by law to enforce compliance with Subsections (1) through (4).

70. PLACE OF HOLDING COURT – UCA 78A-2-212

A. A municipal justice court judge shall hold court in the municipality where the court is located, and, as directed by the city council, at the county jail or municipal prison.

71. PRESERVATION OF RECORDS – JURORS – UCA 78B-1-112

All records and papers compiled in connection with the selection and service of jurors shall be preserved by the clerk for four years, or for any longer period ordered by the court.
A. The court may appoint an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:

1) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent, as defined by UCA 77-32-202; or

2) the custody of, or parent-time with, a child is at issue.

B. 1) The court shall consider the limited number of eligible private attorneys' guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.

2) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.

3) A court may not appoint a private attorney guardian ad litem in a criminal case.

C. 1) If the parties stipulate to a private attorney guardian ad litem, the office shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.

2) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).

3) The court shall state in an order that the court is appointing a private attorney guardian ad litem, to be assigned by the office, to represent the best interests of the child in the matter.

4) The court shall send the order described in Subsection (3)(c) to the office, in care of the Private Attorney Guardian ad Litem program.

D. The court shall:

1) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

2) to the extent possible, bifurcate the issues described in Subsection (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and

3) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:

a) resolving the issues described in Subsection (4)(a); and

b) terminating the private attorney guardian ad litem from the appointment to the case.
E. The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:

1) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or

2) there has been no activity in the case for a period of six consecutive months.

F. A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.

G. When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.

H. 1) Upon receipt of the court's order, described in Subsections (3)(c) and (d), the office shall assign the case to a private attorney guardian ad litem, if available, in accordance with this section.

2) a) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.

b) If, after the initial assignment of a private attorney guardian ad litem, either attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.

c) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.

d) If no alternative private attorney guardian ad litem is available, the office shall notify the court.

I. 1) When appointing a private attorney guardian ad litem, the court shall:

a) assess all or part of the private attorney guardian ad litem fees, court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and

b) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):

i) be paid a set fee and initial retainer;

ii) not be paid and serve pro bono; or

iii) be paid at a rate less than the set fee established by court rule.
2) If a party claims to be impecunious, the court shall follow the procedure and make a determination, described in UCA 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.

3) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.

J. Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:

   1) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and

   2) represent the best interests of the minor until released by the court.

K. The private attorney guardian ad litem:

   1) shall be certified by the director of the office as meeting the minimum qualifications for appointment; and

   2) may not be employed by, or under contract with, the office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.

L. The private attorney guardian ad litem appointed under the provisions of this section shall:

   1) represent the best interests of the minor from the date of the appointment until released by the court;

   2) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

   3) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

   4) a) personally meet with the minor, unless:

      i) the minor is outside of the state; or

      ii) meeting with the minor would be detrimental to the minor;

   b) personally interview the minor, unless:

      i) the minor is not old enough to communicate;

      ii) the minor lacks the capacity to participate in a meaningful interview; or

      iii) the interview would be detrimental to the minor;

      iv) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and

      v) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:
The private attorney guardian ad litem shall represent the best interests of a minor.

2) If the minor’s intent and desires differ from the private attorney guardian ad litem’s determination of the minor’s best interests, the private attorney guardian ad litem shall communicate to the court the minor’s intent and desires and the private attorney guardian ad litem’s determination of the minor’s best interests.

3) A difference between the minor’s intent and desires and the private attorney guardian ad litem’s determination of best interests is not sufficient to create a conflict of interest.

4) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:
   a) instructs the private attorney guardian ad litem to not disclose the minor’s intent and desires; or
   b) has not expressed an intent and desire.

5) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the private attorney guardian ad litem.

The office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.
Q. Upon the advice of the director and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

1) the minimum qualifications and requirements for appointment by the court as a private attorney guardian ad litem;

2) the standard fee rate and retainer amount for a private attorney guardian ad litem;

3) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;

4) a system to:
   a) select a private attorney guardian ad litem for a given appointment; and
   b) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and

5) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

R. 1) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of an office guardian ad litem, shall be applied to the office to recruit and train attorneys for the private attorney guardian ad litem program.

2) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

73. PROCESS SERVERS – UCA 78B-8-302

A. Complaints, summonses, and subpoenas may be served by a person who is:

1) 18 years of age or older at the time of service; and

2) not a party to the action or a party's attorney.

B. Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

1) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

2) a sheriff or appointed deputy sheriff employed by a county of the state;

3) a constable, or the constable's deputy, serving in compliance with applicable law;

4) an investigator employed by the state and authorized by law to serve civil process; and

5) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

6) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
C. While serving process, a private investigator shall:

1) have on the investigator's person a visible form of credentials and identification identifying:
   a) the investigator's name;
   b) that the investigator is a licensed private investigator; and
   c) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

2) verbally communicate to the person being served that the investigator is acting as a process server; and

3) print on the first page of each document served:
   a) the investigator's name and identification number as a private investigator; and
   b) the address and phone number for the investigator's place of business.

D. Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:

1) a law enforcement officer, as defined in UCA 53-13-103; or

2) a constable, as defined in UCA 53-13-105(1)(b)(ii).

E. The following may not serve process issued by a court:

1) a person convicted of a felony violation of an offense listed in UCA 77-41-102(17); or

2) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders, in which a court has granted the petitioner a protective order.

F. A person serving process shall:

1) legibly document the date and time of service on the front page of the document being served;

2) legibly print the process server's name, address, and telephone number on the return of service;

3) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

4) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

5) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

74. RECORDS OF COURT PROCEEDINGS – DUTIES OF COURT REPORTER – UCA 78A-2-405

A. The Judicial Council shall by rule provide for the means of maintaining the record of proceedings in the courts of record by official court reporters or by electronic recording devices.
75. RECORDS RETENTION POLICY - Refer to Utah State Courts Records Retention Schedule

76. REQUIRED ANNUAL TRAINING – EXPENSES – FAILURE TO ATTEND – UCA 78A-7-205
A. All justice court judges shall meet the continuing education requirements of the Judicial Council each calendar year.
   1) Successful completion of the continuing education requirement includes instruction regarding competency and understanding of constitutional provisions and laws relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as indicated by a certificate awarded by the Judicial Council.
   2) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission against each justice court judge who does not comply with this section.

77. RULES – RIGHT TO MAKE – LIMITATION – SECURITY – UCA 78A-2-203
A. Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.
B. 1) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in UCA 76-8-311.1.
   2) a) If the council establishes a secure area under Subsection (2)(a), it shall provide a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.
      b) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).
      c) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).
   3) a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third-degree felony.
      b) Any person is guilty of violating UCA 76-10-306 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by UCA 76-10-306, within a secure area, established by the Judicial Council under this section.

78. SEAL OF THE COURT – UCA 78A-2-205
The seal of the court need not be affixed to any document of the court, except to:
A. a writ
B. a certificate of the probate of a will, or of appointment of an executor, administrator, or guardian
C. the authentication of:
   1) a copy of a record or document on file with the court
   2) the signature of an officer of the court

79. SECURITY SURCHARGE – APPLICATION AND EXEMPTIONS – DEPOSIT IN RESTRICTED ACCOUNT – UCA 78A-2-601
   A. In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of $43 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.
   B. The security surcharge may not be imposed upon:
      1) nonmoving traffic violations;
      2) community service; and
      3) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under UCA 78A-6-602.
   C. The security surcharge shall be collected after the surcharge under UCA 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
   D. The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in UCA 78A-2-602.

80. SECURITY SURCHARGE – APPLICATION – DEPOSIT IN RESTRICTED ACCOUNTS – UCA 78A-7-122
   A. In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of $50 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.
   B. The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.
   C. Eighteen dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in UCA 78A-2-602.
   D. Thirty-two dollars of the security surcharge shall be allocated as follows:
      1) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and
      2) 80% shall be remitted to the state treasurer to be distributed as follows:
         a) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
         b) 25% to the Court Security Account created in UCA 78A-2-602; and
c) 12.5% to the Justice Court Technology, Security, and Training Account created in UCA 78A-7-301.

E. The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

81. SITTINGS OF COURTS – TO BE PUBLIC – UCA 78A-2-208

A. The sittings of every court of justice are public, except as provided in Subsections (2) and (3).

B. The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

C. In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

82. SMALL CLAIMS COURT – UCA 78A-8-102

A. A small claims action is a civil action:

1) for the recovery of money where:

   a) the amount claimed does not exceed $10,000 including attorney fees but exclusive of court costs and interest; and (ii) the defendant resides, or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or

2) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed $10,000 including attorney fees but exclusive of court costs and interest.

B. 1) A defendant in an action filed in the district court that meets the requirements of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:

   a) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and

   b) paying the applicable small claims filing fee.

2) No filing fee may be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.

C. The judgment in a small claims action may not exceed $10,000 including attorney fees but exclusive of court costs and interest.

D. Counter claims may be maintained in small claims actions if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.

E. 1) With or without counsel, persons or corporations may litigate actions on behalf of themselves:
a) in person; or

b) through authorized employees.

2) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah rules of small claims procedure as promulgated by the Supreme Court.

F. If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the initial claim from the court's calendar in order to dispose of all other small claims matters. Claims so removed shall be rescheduled as permitted by the court's calendar.

G. Small claims matters shall be managed in accordance with simplified rules of procedure and evidence promulgated by the Supreme Court.

83. TEMPORARY JUSTICE COURT JUDGE – UCA 78A-7-208

When necessary, the governing body may appoint any senior justice court judge, or justice court judge currently holding office within the judicial district or in an adjacent county, to serve as a temporary justice court judge.

84. TERM OF OFFICE FOR MUNICIPAL JUSTICE COURT JUDGE – UCA 78A-7-203

A. The term of a justice court judge is six years beginning the first Monday in January following the date of election.

B. Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in UCA 20A-12-201:

1) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or

   a) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

2) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act.

3) Notwithstanding Subsection (3), each justice court judge who is subject to a retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according to the following performance standards:

   a) the justice court judge shall have at least 30 annual hours of continuing legal education for each year of the justice court judge's current term;

   b) the justice court judge may not have more than one public reprimand issued by the Judicial Conduct Commission or the Supreme Court during the justice court judge's current term; and
c) the justice court judge may not have had any cases under advisement for more than two months.

85. TERRITORIAL JURISDICTION – VOTING – UCA 78A-7-105

A. The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, except cities where a municipal justice court exists.

B. The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

C. Justice court judges have the same authority regarding matters within their jurisdiction as judges of courts of record.

D. A justice court may issue all extraordinary writs and other writs as necessary to carry into effect its orders, judgments, and decrees.

E. 1) Except as provided in this Subsection (5), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:
   a) is recorded in the office of the county recorder of the county in which the real property of the judgment debtor is located; and
   b) contains the information identifying the judgment debtor in the judgment or abstract of judgment as required in UCA 78B-5-201(4)(b) or as a separate information statement of the judgment creditor as required in UCA 78B-5-201(5).

   2) The lien runs for eight years from the date the judgment was entered in the district court under UCA 78B-5-202 unless the judgment is earlier satisfied.

   3) State agencies are exempt from the recording requirement of Subsection (5)(a).

86. TRANSCRIPTS AND COPIES – FEES – ESTABLISHMENT OF COURT REPORTING TECHNOLOGY ACCOUNT – UCA 78A-2-408

A. The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

B. 1) The fee for a transcript of a court session, or any part of a court session, shall be $4.50 per page, which includes the initial preparation of the transcript and one certified copy. The preparer shall deposit the original text file and printed transcript with the clerk of the court and provide the person requesting the transcript with the certified copy. The cost of additional copies shall be as provided in UCA 78A-2-301(1). The transcript for an appeal shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.

   2) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in which the defendant is found to be impecunious shall be paid pursuant to UCA 77-32-305.
C. The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for
the preparation of the transcript by a certified court reporter of a hearing before any court, referee,
master, board, or commission of this state shall be as provided in Subsection (2)(a) and shall be payable
to the person preparing the transcript. Payment for a transcript under this section is the responsibility of
the party requesting the transcript.

87. TRANSCRIPTS TAXED AS COSTS – UCA 78A-2-410

A transcript may not be taxed as costs, unless the preparation of the transcript is ordered either by a party or by
the court.

88. TRIAL FACILITIES – HOURS OF BUSINESS – UCA 78A-7-213

A. A justice court judge shall conduct all official court business in a courtroom or office located in a
public facility which is conducive and appropriate to the administration of justice.

B. 1) A county justice court may, at the direction of the county legislative body, hold justice court
anywhere in the county as needed but may only hear cases arising within its precinct.

2) A municipal justice court judge shall hold court in the municipality where the court is located.

3) Justice courts may also hold court or conduct hearings or court business in any facility or
location authorized by rule of the Judicial Council.

C. Justice courts shall be open and judicial business shall be transacted:

1) five days per week; or

2) no less than four days per week for at least 11 hours per day.

D. The legislative body of the county, city, or town shall establish operating hours for the justice courts
within the requirements of Subsection (3) and the code of judicial administration.

E. The hours the courts are open shall be posted conspicuously at the courts and in local public
buildings.

F. The clerk of the court and judges of justice courts shall attend the court at regularly scheduled
times.

G. By July 1, 2011, all justice courts shall use a common case management system and disposition
reporting system as specified by the Judicial Council.

89. VACANCY IN THE OFFICE OF JUSTICE COURT JUDGE – UCA 20A-1-506

A. As used in this section:

1) "Appointing authority" means:

a) for a county:

i) the chair of the county commission in a county having the county commission or
expanded county commission form of county government; and
ii) the county executive in a county having the county executive-council form of
government; and

b) for a city or town, the mayor of the city or town.

2) "Local legislative body" means:

a) for a county, the county commission or county council; and

b) for a city or town, the council of the city or town.

B. 1) If a vacancy occurs in the office of a municipal justice court judge before the completion of
his term of office, the appointing authority may:

a) fill the vacancy by appointment for the unexpired term by following the procedures and
requirements for appointments in UCA 78A-7-202; or

b) contract with a justice court judge of the county, an adjacent county, or another
municipality within those counties for judicial services.

2) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it shall ensure that
the contract is for the same term as the term of office of the judge whose services are replaced by
the contract.

3) The appointing authority shall notify the Office of the State Court Administrator in writing of the
appointment, resignation, or the contractual agreement for services of a judge under this
section within 30 days after filling the vacancy.

C. 1) If a vacancy occurs in the office of a county justice court judge before the completion of
that judge's term of office, the appointing authority may fill the vacancy by appointment for the
unexpired term by following the procedures and requirements for appointments in UCA 78A-7-
202.

2) The appointing authority shall notify the Office of the State Court Administrator in writing of any
appointment of a county justice court judge under this section within 30 days after the
appointment is made.

D. 1) When a vacancy occurs in the office of a justice court judge, the appointing authority shall:

a) advertise the vacancy and solicit applications for the vacancy;

b) appoint the best qualified candidate to office based solely upon fitness for office;

c) comply with the procedures and requirements of Title 52, Chapter 3, Prohibiting
Employment of Relatives, in making appointments to fill the vacancy; and

d) submit the name of the appointee to the local legislative body.

2) If the local legislative body does not confirm the appointment within 30 days of submission, the
appointing authority may either appoint another of the applicants or reopen the vacancy by
advertisement and solicitations of applications.

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CHAPTER 10 – RECORDS MANAGEMENT

1. WHAT IS A RECORD?

"Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics that is prepared, owned, received, or retained by a governmental entity or political subdivision and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

"Record" does not mean a personal note or personal communication prepared or received by an employee or officer of a governmental entity in the employee's or officer's private capacity; a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working; material that is legally owned by an individual in the individual's private capacity; material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision; proprietary software; junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity; a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public; material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material; a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working; a computer program that is developed or purchased by or for any governmental entity for its own use; a note or internal memorandum prepared as part of the deliberative process by: a member of the judiciary; an administrative law judge; a member of the Board of Pardons and Parole; or a member of any other body charged by law with performing a quasi-judicial function; a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in UCA 63G-2-301; information provided by the Public Employees' Benefit and Insurance Program, created in UCA 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under UCA 17-50-319(2)(e)(ii); or information that an owner of unimproved property provides to a local entity as provided in.

2. DEFINITIONS

A. Appraisal – the process of determining the value, retention and disposition of a record based on the administrative, legal, fiscal, historical (research) value, as well as the record's relationship to other records.

B. Archives – facility used for storage of an organization’s records that are preserved because of their historical or evidentiary value.

C. Classification – the determination of whether a records series, record or information within a record is public, private, controlled, protected or if the record is exempt from disclosure under UCA 63G-2-201(3)(b).

D. Disposition – the action taken with records following the end of their retention period. The action includes either transfer to the State Archives or destruction.

E. General Retention Schedule – a listing and description of records series commonly found in agencies. The time period shown for each general schedule item indicates the retention which the State Records Committee has approved for these types of records. General retention schedules have been issued for state agencies, individual agencies, counties, municipalities and school districts.
F. Inactive Records – records which are no longer used on a consistent basis. Records that are generally used once per month or less per file drawer.

G. Record Content – the information contained in a record.

H. Record Copy – the original file copy of a record series maintained by the creating agency, sometimes referred to as the designated original or blue-ribbon copy.

I. Record Series – a group of records that are created, used, and filed as a unit because they relate to a particular subject or function, result from the same activity or have a particular physical form.

J. Records Center – a facility used for low-cost, off-site storage of inactive records pending their ultimate disposition.

K. Record Format – the record's physical substance such as paper, microform, electronic form, CD, audio recording, map, photograph, blueprint, etc.

L. Records Inventory – a survey which identifies and quantifies all record series possessed by a government agency. The records inventory is used to identify an agency's records in order to develop records retention schedules.

M. Records Management – the systematic and administrative control of records throughout their life cycle to ensure efficiency and economy in their creation, use, handling, control, maintenance, and disposition.

N. Records Officer – the individual appointed by the chief administrative officer of each government agency to work with State Archives in the care, maintenance, scheduling, designation, classification, disposal and preservation of records.

O. Records Retention Schedule – a document that describes the records of an agency and establishes the retention and disposition of those records. The retention schedule defines the length of time the records must be kept, where it is to be maintained, and the disposition of the record.

P. Retention Period – the time period that an agency's record series is maintained prior to disposition. This time period is based on the estimate of frequency of use and length of time necessary to keep the records.

Q. State Records Committee – the committee created under GRAMA that reviews and approves all retention schedules and hears appeals regarding records access requests. The committee is composed of seven members including a private sector; records manager, the state auditor or the auditor's designee; the director of the Division of State History; the governor or governor's designee; one citizen member; one elected official representing a political subdivision; and one individual representing the media.

3. TYPES OF RECORDS

A. Active records are retained in agency and are in agency custody.

B. Inactive paper records usually are stored in an offsite storage area such as the State Records Center. Electronic records are stored in a less expensive tier. Records are in agency custody.

C. Archival records meet their disposition at the end of the retention period. Records are either kept permanently or destroyed. Most records are destroyed. Permanent records are often transferred to the State Archives, and custody is transferred.
D. Private record means a record containing data on individuals that is private as provided by UCA 63G-2-302.

E. Protected record means a record that is classified protected as provided by UCA 63G-2-305.

F. Public record means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in UCA 63G-2-201(3)(b).

G. Controlled record means a record containing data on individuals that is controlled as provided by UCA 63G-2-304.

H. Transitory record means correspondence and routine documents that have a short life span or value and are not integral to operations.

I. Electronic Record means information captured through electronic means, and which may or may not have a paper record to back it up. These may also be called machine readable records.

4. ABOUT RECORDS MANAGEMENT

Put someone in charge: Assign overall responsibility for the records management program to one person. Otherwise, it won't get done. An advisory records committee, with representatives from each department, may help to formulate and implement the program and direct its continuing operation.

Define your objectives: Identify areas of specific concern. Specific local goals give focus and a sense of immediacy to the program.

A. INVENTORY YOUR OFFICE RECORDS: Find out what you have. What's in the storage area by the boiler room? What happens to the five copies of the water bill payment receipts? The inventory will tell you what's really there and what happens to it; it will identify problem areas; and it will provide the data needed to proceed with the process.

How to conduct an inventory:

1) Create an inventory worksheet to ensure that all necessary information is compiled in a uniform manner. This is especially important where several different individuals will be taking the inventory.

2) Include all records in the inventory. The inventory is not just an excuse to clean out the storage room. Rather, it is one step towards a system to ensure that the storage room doesn't fill up again. If the inventory is done only as a housekeeping operation, you can bet you'll be back in five years doing it all over again.

3) Make the inventory as complete and accurate as possible. Decisions will be made based on the information in the inventory. You don't want to have to recheck details again later.

4) Inventory record series. Don't lump all the treasurers' papers under the heading "Financial Records." At the other extreme, it is equally unproductive to analyze the contents of each file folder. The records series concept offers a useful intermediate level for describing records in your inventory.

B. ORGANIZE YOUR RECORDS - FILES MANAGEMENT: The first goal of your records management program is fewer and better records in your office. Your records inventory is a big step towards that
objective. While the inventory data will be used to schedule the disposition of non-current materials later in your program, it also can be used as the basis for more efficient arrangement of current files.

1) There are three keys to efficient file organization:
   a) Control records from time of creation to receipt
   b) Systematic file organization
   c) File maintenance

2) Control of Records from Time of Creation or Receipt: File management really begins when the record is produced in your office or received from someone else. A few controls at this point can help to keep your files from getting overfull. Much of the bulk can be eliminated by not letting unnecessary papers get into the files in the first place.

3) Copy Control: How many photocopies are made unnecessarily just because a copy machine is readily available? Could that report be routed instead of making multiple copies?

4) Duplicate Files: Have convenience files become a second filing system making everything harder to find? Whose copy of that letter or form is the record copy? Do you really need to file that copy which was sent just for your information?

5) Memoranda: Could you have easily handwritten that interoffice reply on the bottom of the inquiry?

6) Forms Control: Is the form needed? Do you need all the information requested? Are all those copies needed for routing?

7) Match your inventory with existing schedules

8) Write the retention schedule numbers on your inventory sheet.

9) Mark each series on your inventory sheet that does not match a general or agency-specific retention schedule.

10) Create new retention schedules when needed.

11) Create new schedules for any group of records on your inventory not having a matching schedule.

C. PLAN AND REVIEW: Create a records management plan. This can be in paper, Excel, a folder, etc. The plan should be transferrable to anyone who takes your position if you should leave it. The plan should contain copies of your general and agency-specific schedules.

1) Identify and mark:
   a) The record-copy for each schedule.
   b) Specific retentions and dispositions for your general schedules and any duplicate copies not listed on schedules.
   c) Essential records (vital records).
d) Record location and formats used.

2) Review your plan with your records committee or your administration.

3) Review your plan every 4-6 months.

4) Notice if updating is needed. Do you have a new record series, format, or new retention and disposition needs? Has your agency stopped creating specific records?

5) Contact your records analyst for help updating your schedules.

D. MANAGE RETENTION PERIODS: Review the retention period for each general and agency-specific schedule, including the planning notes you have made.

1) Note which records have reached their inactive stage and are ready to be transferred to an offsite location, usually the State Records Center. Note which electronic records need to be moved to an inactive tier.

2) Note which records have met their disposition (See next step for disposition instructions).

E. APPLY APPROPRIATE DISPOSITION METHODS: Disposition is what happens to records at the completion of the retention period.

1) Two possible disposition choices: records are either destroyed or they are kept permanently.

a) If your records complete their retention while at the State Records Center, your agency's records destruction officer will be sent an authorization for destruction. Only after the agency authorizes the destruction will the Records Center staff destroy the records.

b) Whether records are properly destroyed in the office or by staff at the State Records Center, it is critical to fill out a Destruction Log which documents the proper destruction of the records. If your records are to be kept permanently in your office, make sure records are safe and secure. If your records are to be kept permanently at the Utah State Archives, contact your records analyst, and send the Archives Transfer Sheet to the State Archives.

F. KEEP ALL OFFICE RECORDS SAFE AND SECURE

1) Organize records by series when possible.

2) Place manila folders inside hanging folders for paper records.

3) Use noncombustible shelving.

4) Handle records with clean hands.

5) Store in areas free of dust, dirt, and pollutants and away from insects and rodents.

6) Store records 4 inches from the floor.

7) Implement fire suppression systems and fire/smoke alarms.

8) If possible, do not store records:
a) In attics, basements, or outside storage containers.
b) Near heat sources.
c) Under UV or fluorescent lighting, or by windows.
d) Near water, water/sewer pipes, or areas where mold grows.

5. FILES MANAGEMENT TECHNIQUES

Records should be managed at each stage of their lifecycle, from the time they are created to when they cease to hold any administrative, legal, or fiscal value.

A. CREATION: Know which copy is your "record copy" and minimize duplicates. Use centralized filing systems if necessary. Duplicates may seem innocent, and they are handy, but they also pile up, costing organizations much in terms of space, filing equipment, and sometimes litigation costs if the original record was not (and all copies should have been) destroyed according to an approved retention schedule.

B. ACTIVE USE: Records in active use need to be found quickly. They receive frequent handling, and so should be housed in such a way that would minimize damage. They are often used by many people and need to be tracked as to who has what and for how long.

1) A properly-managed file drawer will use no more than 23 to 24 inches of the 27 inches of clear capacity (if using traditional upright file drawers). Tightly packed drawers slow filing and retrieval, cause personnel to suffer paper cuts, and result in records which are torn or destroyed.

2) Active file drawers should have between 5 to 20 file guides (based on the classification scheme, e.g. A-F, or 1000-3999). Anything less probably means that personnel are spending too much time "fingering" through the drawers.

3) File folders should all have the same basic tab style, not a mixture of different types and sizes. The folders should be durable, at least 11-point for frequent use out of the file and 14-point press board for heavy use.

4) Standard folder labels should be used, and they should be typed rather than handwritten.

5) Manila folders are designed to hold a maximum of 3/4" of paper. Over-filling folders causes the material to ride up in the folder and obscure the label. It also subjects the material to ripping and tearing and tends to cause the folders to "slump" in the drawer. On the other hand, if files only contain a few items, there may be too many discrete files and consolidation may be advisable. An optimum folder should contain from 20-50 pages.

6) Hanging file folders should only be used in conjunction with manila folders, not with papers stuffed into the hanging file alone. This will facilitate later removal of the records when they go into inactive storage.

7) Filing systems should only be used for storing files. Books, office supplies, and lunch should not be stored in filing cabinets.

8) Centralize the filing of common interest records to one location under one supervisor. File specialized records in departments where handled and establish handling procedures.
9) The use of microfilm or imaging systems will reduce the need for space, mitigate damage through handling, as well as facilitate the search for records.

10) Remove files from active file space when they are used less than once per month, otherwise your inactive files will clog your active file space and make finding your active files take twice as long.

C. INACTIVE USE: Records removed from active file space should be stored outside of the immediate office area, either in an agency storage room or at an offsite records center, until their retention has been met. The Utah Division of Archives and Records Service is available for use by Utah governmental entities free of charge. The reason for using offsite storage is primarily cost. Office space is expensive, but warehouse space is relatively inexpensive, and if the records are not needed frequently, use of a records center is a good solution. Records may be retrieved from the State Records Center if needed, the turnaround time being about 24 hours.

1) The more organized your records are in their active use stage, the easier they will be to find when stored offsite. Always use the same filing scheme in inactive storage as you did in the active file drawer.

2) Remove files from file drawers and hanging file folders and place them in a Records Center box (with the Archives' label on it), even if they will not be transferred. This type of box is built to strong specifications and is usually less expensive than other boxes and easier to handle. Do not use banker's boxes.

3) If creating your own storage area, be sure the floors have sufficient strength (300 psi).

4) Use the ground floor if possible, not a basement, which may be prone to water damage.

5) Be sure that your storage area is secure against any unauthorized access.

6) Storage areas should be climate-controlled. Do not let the temperature exceed 82 degrees. Make sure it has a good ventilation system.

7) Use standard steel shelving. Do not place records directly on the floor, in case of flooding.

D. DISPOSITION: Records whose retention has been met should be destroyed. Records that are stored at the State Records Center are burned when the retention period has been met and notification has been sent to the agency. Records which have continuing historical value should usually be transferred to the State Archives.

1) Shredding records may be done to destroy them, but the shred size should be no larger than 3/16". Shredding is very labor intensive and is not practical for large volumes of records.

2) Recycling may be done for records that are classified as public under UCA 63G-2-301. It is not advisable for non-public records.

3) If you would like the State Records Center to burn records that you have not stored at the State Records Center, contact them at 801-975-4016 to see if they have room in their destruction bin.

4) You may make your own arrangements for burning your records but checking with your local Solid Waste Management District.

E. FIVE METHODS OF FILING
1) Filing by Subject/Category

2) Filing in Alphabetical order

3) Filing by Numbers/Numerical order

4) Filing by Places/Geographical order

5) Filing by Dates/Chronological order

6. EQUIPMENT AND SUPPLIES

Standardized filing supplies and equipment will facilitate an office’s records management.

A. FOLDERS

1) Kraft folders are preferred for records that have a relatively short retention before being retired or destroyed. The standard Kraft folder is eleven-point, flat, bottom scored for ¾” expansion, reinforced self-tab and square cut.

2) Press board folders work better than Kraft folders for project and case files, as these files tend to have a higher content volume than other records. The standard press board folder is flat cut, 1” expansion with self-tabs, 2.5” prong fasteners, and square cut.

3) Hanging folders are recommended when a file is frequently referenced but are not recommended for general filing due to their cost. Files should still be kept in Kraft folders, which can be inserted in the hanging folders.

Folder labels and/or guide cards (with metal tabs) should be used to title all folders for quick reference.

B. LABELS AND LABELING SYSTEMS

1) Smead Smartstrip

2) TAB TABQUIK

3) Roll and sheet labels
   a) Alphabetic
   b) Numeric
   c) Year band
   d) Month band
   e) Solid color

C. FILING EQUIPMENT: There are three main types of filing equipment: standard filing cabinets, shelf filing equipment, and mechanized filing equipment.

1) Standard filing cabinets can be letter or legal-size. If more than 20% of the documents to be filed are legal-size, an office should use legal-size filing cabinets.
2) Shelf filing equipment is recommended for case and project files, and those that are arranged alphabetically or numerically.

3) Mechanized filing equipment is costly and requires maintenance and repair. Therefore, the following should be considered:
   a) The weight and technology make mechanized filing equipment difficult to move and reconfigure.
   b) Available electrical power is essential.
   c) The floor must be strong enough to hold the equipment.
   d) It is not always practical if several people need to use the files at the same time.
   e) Appropriate maintenance and repair arrangements are essential.

7. HOW TO HANDLE RECORD MATERIALS

A. General
   1) Handle documents with clean, dry hands.
   2) Fully support documents at all times – they should be held with both hands and shouldn’t be allowed to drape off the edge of a table, desk or shelf.
   3) Avoid leaning on materials and writing notes or filling out forms on top of them.
   4) Food, drink and smoking must not be permitted in areas where materials are present – consumables not only make a mess when spilled, but attract insects and vermin.
   5) Avoid using rubber bands, paper clips or other fasteners.
   6) Make copies for regular use to save wear and tear on any vulnerable items.
   7) Bring damaged materials to the attention of appropriate staff.

B.Bound Volumes
   1) Turn pages carefully, especially if they are brittle.
   2) Use slips of acid-free paper to mark pages rather than folding corners, inserting paper clips or using "Post-it" notes.
   3) Use bookends to support volumes on shelves.
   4) Shelve books spine down if they don’t fit upright or horizontally – shelving them spine up puts stress on the hinge areas.
   5) To remove a volume stored vertically on a shelf push back the volumes on either side and grasp both sides of the volume you want to pull out – avoid pulling on the top of the spine.
6) To remove a volume stored horizontally, remove any volumes on top of it before pulling it out – avoid tugging it out from underneath other volumes.

7) Use a book cradle or wedge under the covers when reading rather than force a stubborn volume to lie flat.

C. Unbound Paper

1) Take folders out of boxes rather than "fingering" through the top edges.

2) Remove oversized items in map cases from the drawer before trying to review their contents.

D. Photographic Materials

1) Handle prints with both hands rather than picking them up by an edge or corner.

2) Avoid flexing, creasing or bending.

3) Wear white, lint-free cotton gloves when handling items – this is especially important when handling negatives.

8. BIBLIOGRAPHY

"Municipal General Records Retention Schedule"
Utah State Archives and Records Service


"Glossary of Terms"
Utah State Archives and Records Service

http://archives.utah.gov/recordsmanagement/glossary.html

"Guidelines for Records Officers"
Utah State Archives and Records Service


URLs were valid on September 21, 2018.

CHAPTER 11 – RISK MANAGEMENT

1. PURPOSE

Safety is the exercise of good judgment. Using safe habits at work will protect you, your fellow workers and your family from needless suffering and financial loss. Accidents will happen even in the safest work environments, but the guidelines contained herein should help to minimize accidents and/or their impacts on people if allowed. The guidelines contained herein should not be considered all-inclusive. Departments have additional rules and procedures which cover hazardous operations that employees should inquire of their supervisors.
2. RISK MANAGEMENT POLICY

It is the policy of the city to minimize the long-term cost to the city of accidental losses and their consequences by providing for the identification, measurement, prevention and control of risks. City goals include providing municipal services and a place of employment free from hazards and to help protect the community from sustaining losses. In fulfilling this goal, the city has established a Risk Management Program under the direction of a Safety Committee or a Risk Management Committee.

All city operations will be conducted to avoid, eliminate, reduce, transfer and manage the risks associated with them. The Risk Management Program consists of three steps: First, potentially hazardous situations are identified; Second, the risk is evaluated, and corrective action is identified; Third, the corrective action is later evaluated for effectiveness. All Risk Management policies must be in compliance with Utah Administrative Code / Risk Management, Title 63A-4-101, 102, 103, 104 and Title 63A-4-201, 202, 203, 204.5, 205.5, 206, 207.

3. SAFETY COMMITTEE

The Safety Committee or Risk Management Committee shall implement and coordinate the city’s Risk Management and Safety Program. The committee will meet regularly to review and make recommendations regarding claims against the city; accidents involving city owned, operated or leased vehicles; programs, policies or other activities that assist employees in reducing the city's exposure and liability claims. The committee should include Department Heads or Directors, Supervisors and/or Superintendents, and any other personnel assigned by management.

4. RESPONSIBILITIES OF A RISK MANAGER

The Risk Manager will be a resource and assist the Safety Committee or Risk Management Committee, Department Heads or Directors, Division Managers and employees in the implementation of risk management and safety programs in their area. The Risk Manager will organize risk management activities and training for departments, as well as the follow up and follow through with assignments given and/or recommended by the Safety Committee.

5. PROCEDURES FOR REPORTING AND DISPOSING OF CLAIMS AND LAWSUITS AGAINST THE CITY

It is the policy of the city that claims and lawsuits against the city or its employees be handled in an expedient manner and through proper claims and lawsuit procedures. All claims presented to the city should be filed on a city claim form with all written documents and pictures submitted to the risk claims manager. Claims should be filed immediately after the incident occurs. All claims against the city must be filed within one (1) year from the time the claim arose. All lawsuits filed against the city must follow correct legal procedures. Lawsuits against the city are filed with the city recorder and notification given to the city attorney's office, the risk manager and the city's insurance company.

6. EMPLOYEE SAFETY

All employees are responsible for compliance with safety procedures, standards and rules outlined in the Safety Manual provided by their Department Head or other applicable directives that are established by the city risk manager or the employee's department director to prevent injury to themselves and others or damage to equipment and property. Employees are also responsible for promptly reporting to their Supervisor any hazardous conditions or procedures that affect them, their fellow employees or the public.
7. PERSONAL PROTECTIVE EQUIPMENT (PPE)

Personal protection and safety equipment are provided to employees to protect them against personal injury. Employees issued safety equipment are expected to use that equipment. If the equipment is not adequate, employee is to report this to their Supervisor before work can be performed.

8. OFFICE SAFETY

Office work is more dangerous than is commonly supposed and many accidents occur during ordinary office routines. Procedures are identified to help reduce office related accidents, please refer to the Safety Manual and/or policies and procedures.

9. HOUSEKEEPING

Many painful and sometimes disabling injuries are caused when employees are struck by falling objects or striking against or tripping over objects they did not see, which can lead to physical injury or property damage. Please follow the safety procedures that are outlined and/or identified in the Safety Manual to help reduce housekeeping related accidents and losses.

10. VEHICLE SAFETY

To reduce vehicle accidents involving city vehicles, a Vehicle Safety Program has been developed. This program shall include a vehicle maintenance program, defensive driving training, a vehicle operation program, driver license review and mandatory seat belt use.

11. ACCIDENTS INVOLVING CITY VEHICLES

Vehicle accidents must be reported, regardless of the severity, immediately upon occurrence. A written report will be completed by the driver of the city vehicle and reviewed by the employee’s supervisor within one business day of the occurrence.

12. PARKS MAINTENANCE

All city parks, their landscaping and equipment inclusive, will be inspected regularly and maintained in a safe manner. Please refer to the Parks Department Director for inspection and maintenance schedule.

13. SIDEWALKS

A written inventory of all sidewalks in the city shall be maintained by the Public Works Department. The sidewalks in the city should be inspected at least twice a year.

14. TRAFFIC CONTROL DEVICES (TCD) PROGRAM

The Traffic Control Devices Program provides a procedure for the proper use, installation, maintenance, inspection and replacement of regulatory traffic control devices to avoid personal injury to drivers, passengers and pedestrians and damage to personal property. Traffic Control Devices are to be inspected for visibility and retro-reflectivity, two times per year, once at night, and once during daytime conditions.
15. **SEWER UTILITY**

A written inventory of the sewer lines in the city shall be maintained by the Public Works Department and/or Development Services Department. Sewers are inspected and maintained annually. Some city collection systems (sewers) may be maintained by regional Special Service Districts.

16. **WATER UTILITY MAINTENANCE PROGRAM**

A written inventory of the water system in the city shall be maintained by the Public Works Department. All necessary repairs and problems are to be reported to the Public Works Department and/or the city's utility billing function.

17. **HAZARD COMMUNICATION PROGRAM**

The Hazard Communication Program exists to inform employees of the possible negative outcomes from chemicals used in the workplace. A key component of this program is the Material Safety Data Sheets (MSDS) which outlines the hazards, handling procedures, first aid, etc. for each of the chemicals being used. Each department is responsible for the safe set/training, storage, disposal and MSDS of each chemical being used.

18. **RESPIRATOR PROGRAM**

Before a person is assigned to a task that requires the use of a respirator, the person must be trained in the use, maintenance and storage of Self-Contained Breathing Apparatus (SCBA). It is the responsibility of each department to provide SCBA training.

19. **CONFINED SPACES**

The Public Works Department shall establish a written Confined Space Program that establishes policies and methods for city employees in accessing, or the rescue of people from contained spaces that comply with federal and state laws and regulations.

20. **FORKLIFT OPERATION**

All employees that operate a forklift are required to be trained and certified to operate a forklift. A written inventory of all individuals that are trained and certified to operate a forklift will be maintained by the Public Works Department.

21. **SCHOOL PROPERTY**

Sometimes Cities engage in activities on school property (i.e. recreational soccer, Town Hall meetings, etc.). The use of that school property qualifies the city for standard governmental immunity protection.

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**TITLE 12 – HUMAN RESOURCES**

1. **GENERAL POLICIES**

The Human Resources Department provides reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and ensure compliance with these rules through programs consistent with the best interest of the city and its employees. Utah is an "at-will" state which means employees can terminate or be terminated at will. Exceptions are employees having written contracts signed by the mayor.
The Human Resources Department should comply with Federal and State Equal Employment Opportunity guidelines. The city shall not engage in any unlawful discrimination against any employee because of race, color, religion, sex, national origin, age, disability, or veteran status. The city should strive for safety in all operations and carry out compliance with applicable Federal and State health and safety laws, and is often responsible for administering Health Benefits, Workers Compensation, and Long-Term Disability programs.

2. RESPONSIBILITIES

Generally, the human resources manager works with the city administrator, city council and sometimes an independent consulting firm to ensure the following:

A. Administer and manage all aspects of the city’s personnel system, including but not limited to, recruitment, labor relations, employment, safety, compensation, benefits, contracts, temporary staffing, performance evaluation, employee relations and investigations, and government compliance.

B. Develop and maintain personnel policies, procedures and rules.

C. Maintain employee attendance and leaves of absence.

D. Assist employees in handling issues with any group insurance or other employee benefit programs and deal directly with carriers. Serve as city representative to administer the city’s employee benefit plan(s).

E. Serves as city’s risk manager; administers claims against the city.

F. Administers and monitors all Worker’s Compensation claims.

G. Maintains all employment records and prepares all employment reports as required by law.

H. Ensures employees receive training and development as required by law.

I. Review the design and pay levels of established compensation programs.

J. Conduct research and prepare special personnel reports for city manager, department heads and city council.

K. Maintains and updates Personnel Policy and Procedure Manual to describe workplace practices, hiring and termination procedures and other pertinent information.

3. REFERENCES

Work with your city to ensure you remain compliant with applicable federal and State employment laws. The following links and resources can assist you in complying with Federal and state employment laws. The list is comprehensive but not exhaustive.

A. The Utah Antidiscrimination & Labor Division investigates and resolves employment and housing discrimination complaints and enforces Utah’s minimum wage, wage payment requirements and laws which protect youth in employment.

   Utah State Labor Commission

   (UCA 34A-5-101)
B. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered.

US Equal Employment Opportunity Commission (EEOC)

C. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex and national origin.

EEOC – Laws and Statutes

D. The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 work weeks of unpaid leave a year, and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave. Employees are also entitled to return to their same or an equivalent job at the end of their FMLA leave.

US Department of Labor – FMLA

The FMLA also provides certain military family leave entitlements. Eligible employees may take FMLA leave for specified reasons related to certain military deployments of their family members. Additionally, they may take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. (UCA 71-10-1)

E. Prohibiting Employment of Relatives outlines the rules and regulations associated with hiring an employee who would be directly supervised by a relative or household member. (UCA 52-3-1)

F. The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) administers and enforces the FLSA with respect to private employment, state and local government employment, and Federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority. The FLSA is enforced by the U.S. Office of Personnel Management for employees of other Executive Branch agencies, and by the U.S. Congress for covered employees of the Legislative Branch.

Special rules apply to state and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off instead of cash overtime pay.

US Department of Labor – Wage and Hour Division
CHAPTER 13 – PURCHASING POLICY FOR CITIES

The 1980 Utah State Legislature modified the "Utah Procurement Code" and exempted cities from the provisions of the act. However, each city must by ordinance or resolution, establish purchasing procedures that are not inconsistent with the appropriate section of the Utah Procurement Code. The Uniform Accounting Manual for All Local Governments (Updated May 2018) can be found on the State Auditor's website under For Local Governments – Training and Publications – Accounting Manuals - Uniform Accounting Manual. A Sample Purchasing Policy is found on the State Auditor’s website in the Uniform Accounting Manual under Forms. The city may use this for a guide or starting point in developing its own purchasing policy.

Additional information regarding the Utah Procurement Code, purchasing policies, and available state contracts is available on the Utah Division of Purchasing and General Services website. This website may be a beneficial resource to cities either in updating current purchasing procedures or for cities currently developing or planning to develop purchasing procedures to be formally adopted.

Cities are encouraged to take advantage of the purchasing power of the state by purchasing goods or services under State Contracts. In addition to reduced prices, cities can save time by not having to price shop for items covered by State Contracts. Additional information concerning this program can also be obtained by going to the website of the Utah Division of Purchasing and General Services.

Cities are also encouraged to be aware of the availability of Surplus Property that may be purchased through the State Agency for Surplus Property, located at 447 West 13800 South, Draper, Utah, 84020, (801) 619-7200.

1. UNIFORM FISCAL PROCEDURES ACT FOR UTAH CITIES – UCA 10-6

UCA 10-6-122 requires:

All purchases or encumbrances thereof by a city shall be made or incurred according to the purchasing procedures established by each city by ordinance or resolution and only on an order or approval of the person duly authorized to act as a purchasing agent for the city.

Whenever any city is required by law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, that city shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for:

(a) at least three years following the letting of any contract pursuant to those bids; or

(b) three years following the first advertisement for the bids, if all bids pursuant to that advertisement are rejected.

A. City auditor or recorder – Bookkeeping duties – Duties with respect to payment of claims. (UCA 10-6-139)

In accordance with UCA 10-6-139 the city auditor in each city of the first and second class, and the city recorder in each city of the third, fourth, or fifth class shall maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

1) The city auditor or city recorder, as appropriate, shall keep accounts with all receiving and disbursing officers of the city, shall pre-audit all claims and demands against the city before they are allowed, and shall prepare the necessary checks in payment.
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2) The city auditor or city recorder shall verify that a claim:

a) has been pre-audited and documented;

b) has been approved by purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or the governing body's delegate in other cities, approved by the governing body, or approved by the financial officer;

c) is within the lawful debt limit of the city; and

d) does not over expend the appropriate departmental budget established by the governing body. (UCA 10-6-139)

CHAPTER 14 - BUSINESS LICENSING

1. BUSINESS LICENSING

Business Licensing can be a fairly straightforward matter if your city is small and has few businesses. If not, you need to learn all you can and be on your toes to avoid the pitfalls that lie in wait.

A. UTAH BUSINESS LICENSE ASSOCIATION: The UBLA is a very important and helpful organization for those who are involved in their city's business licensing. This organization began as a group of cities in the north section of the state that got together about once a year to compare notes and review changes in state laws that affect licensing. In about 1990, this group formally organized the UBLA as a non-profit organization, adopted by-laws, and began inviting all cities in the state to join. There are yearly dues, and conferences are held once a year in the fall. At these conferences, there are classes on all areas of licensing. Perhaps, the most helpful aspect of the conferences is the chance to talk with other license officials from all over the state and compare notes and get answers to questions.

The UBLA has established a certification program that will help you as a licensing official. The basic criterion for certification is:

1) Be an active and current member of the Utah Business License Association. Please visit their website for a complete list of contact information, current fees, and requirements.

2) Complete the required hours of educational instruction as identified by the Certification Committee. The areas are subject to change. A current list of areas of instruction and requirements may be found by visiting Utah Business License Association website.

3) Be actively engaged in the issuance of licenses within the jurisdiction you represent.

There are no fees for certification; however, an application is required. The certification is valid for a four-year period from the date of issuance. After that, an official can re-certify by listing the continuing education received through attending conferences and/or training accomplished within the previous four (4) year period. Hours of training by the National Bureau of Business License Officials also count towards certification.

Once a licensing official is certified through this program, the official has the right to place the initials "CBLO" after his/her name and to be recognized as a person with advanced licensing knowledge. The recognition you might receive, however, is unimportant compared to the great help the knowledge will be to you in your duties as a licensing official in your city.
2. KNOW YOUR CODE

The most important part of business licensing is to know your own city code and follow it. If there is something you don’t understand, contact your city attorney, and discuss it with him/her. Each city has a different code. It is vital that your licensing is run in the manner your city code calls for.

If, in reading your code, you find that there are some areas that need to be amended or updated, first bring it to the attention of your city attorney and/or city administrator. If there is no such person, and you are it, take the initiative and propose changes. Remember that the language of your ordinances must be very clear and easy for the average person to understand.

A. HOW TO UPDATE YOUR CODE: If you know exactly the legal language and can write up the ordinance to amend your code, then go ahead and do it. It would be wise, however, to check with neighboring cities and review their codes. There is hardly a city in the State of Utah that will not be very helpful in furnishing copies of sections of business licensing codes. Included with this chapter is a list of business license officers in all cities that belong to the Utah Business License Association. You can call on any of these people for copies of their code, help in understanding the law or any aspect of business licensing.

B. ENFORCEMENT & HOW PLANNING AND ZONING FIT IN: Study your planning and zoning code as well as your license code. In most cities commercial or industrial businesses are allowed only in certain zones. If it is not already in place, you should establish a method whereby your planning and zoning department checks each business to make sure it is located in the right zone and has followed the correct procedures for establishing a business at that location, such as a site plan review, zoning review, building inspection, fire inspection, and any other requirement that your code might list. Businesses locating in a zone where they are not permitted or without proper clearances are one of the pitfalls mentioned at the beginning of this chapter. Once you issue a license, it becomes “property” and can be taken away only through due process. A caution would be that if you deny a license, do so in writing and as soon as possible after the application and review process is completed.

Enforcement of your business license ordinance can be hard if you are only beginning now. If you try to enforce the code as you go, it will be easier to remember to apply the code as it is stated to every business. When you have a problem business, and there will be some, please talk with your city attorney or city administrator but remember to follow your own code. It can be helpful in these situations to call other cities to see how they handled a similar situation.

C. YOUR BUSINESS LICENSE APPLICATION: Another important aspect of licensing is your application. You may contact any city business license official and they will be happy to send you a copy of their application. In preparing your application, make sure you include a space for everything that is required by your code. In addition, there are state and even federal bits of information that you should require.

D. LICENSE FEES: [UCA 10-1-203](#) is one section of the State Code that you should almost memorize. It is here that a good definition of a business is found in section (1). The rest of [UCA 10-1-203](#) will tell you that your city can require a business license and charge a fee by ordinance. Under (5)(a) of this section, you will find the important wording dealing with fees for a business license. If your fee is more than a regulatory fee, which you can easily justify, your city must determine the disproportionate costs of municipal services or enhanced levels of service provided to each particular type of business. You can then base your fees upon the study you conduct to determine these disproportionate or enhanced costs. As you can see when reading (5)(c) and (d), your city must adopt an ordinance defining the disproportionate cost or enhanced level of services. [UCA 10-1-203(6)](#) tells you that you must charge a uniform fee to the same class of businesses. Remember, whatever your fees, they must be based upon
your own study as required by this section. The only exception to this would be beer license fees, which the state allows only up to $300.00.

3. REQUIREMENTS OF YOUR COUNTY

Most county requirements are covered under the Health Department. If you have questions about the health aspect of any business, please don’t hesitate to call your local health department.

4. REQUIREMENTS OF THE STATE

Every business license official should have an up-to-date set of the Utah Code Unannotated books if not access Utah Code online. Every licensing official should be familiar enough with the State Code to be able to look up references when needed.

The state requires that all business in Utah with an assumed business name register with the Utah Department of Commerce. Registration of assumed business names, often called "DBA" (Doing Business As) is required of all businesses that are not corporations, limited liability companies, or limited partnerships. These businesses automatically fulfill this law when they register the entity type.

If a business owner has only recently registered his/her DBA, a number will not have been issued, and you can take a copy of their registration application as proof. You should keep this information in your files. The registration number for corporations, limited liability companies, or limited partnerships will be found at the top of the Articles of Incorporation or the Certificate of Limited Partnership.

A. WHY A BUSINESS IS REQUIRED BY LAW TO REGISTER: Registration protects the business owner so the owner's business name cannot be legally used by another business. This registration provides the business with exclusive use of the exact business name. The more the name is used and becomes known to the public, the more legal protection the name earns against "predatory encroachment" by other businesses.

Registration is required so that a comprehensive state registry of all business and corporate information is available for public references. This information is vital to an orderly legal system and marketplace. Without it, the public or other businesses have no way of knowing the persons with whom they are doing business.

Registration is required by law to provide notice to the public of who owns or stands behind a business entity. A business owner cannot file a lawsuit in court as a business if the business is not registered. Registration enables careful business people to verify information about companies with whom they do business.

B. WHERE A PERSON REGISTERS A BUSINESS NAME: The state of Utah now offers online registration for all business needs; or a business can file in person at one of its "service centers" or by mail. The state calls its online service "One Stop Business Registration" and it can be accessed by going to the Utah Business Registration website.

A business can register a business name, obtain a sale tax number, etc. It's a very valuable resource and should be encouraged. A new business can access the site 24 hours a day, 7 days a week. A new business can also register its business name by contacting:

Division of Corporations and Commercial Code

Utah Department of Commerce
There are other locations called "service centers" throughout the state where a business can register. Please check with someone at the phone number above to see if there is a location near your city. The Business Licensing & Registration Guide explains the benefits of registration and licensor and why and how a business should register and receive a license.

Information about specific business entities can be referenced from the following page on the Division of Corporations and Commercial Code website.

If the business conducts any type of retail sales, the business should have a state tax license and state tax identification number. This can be issued upon application by mail or by going to any of the service centers established throughout the state. The business name registration, filing of articles of incorporation or organization, obtaining the state sales tax license and identification number can usually all be done at the one service center. When a business comes into your city to operate a business for only a short time, you should make certain they have a temporary tax license and number. This can be quickly and easily obtained by contacting the Utah State Tax Commission, Special Events Collection Division, at (800) 662-4335 ext. 6303 or (801) 297-6303 or via email at specialevent@utah.gov.

For your convenience or the convenience of your business license customers, the Utah Department of Commerce also offers several small brochures that you can obtain in quantity to give out to people. Some of these are: "Business Licensing Guide," and "Why Register Your Business." Contact the state at the number listed on the previous page, and they will mail some to you—along with your "Doing Business in Utah" booklets. You can find this online at the web site listed above, but it is very large.

You should be aware that the Department of Commerce has a Division of Consumer Protection (801) 530-6601 or (800) 721-SAFE, or email consumerprotection@utah.gov. Their mission is to respond to consumer complaints, unfair and 14-5 deceptive business practices, and to provide consumer education. This Division administers the following state laws:

- Business Opportunity Disclosure Act
- Charitable Solicitations Act
- Consumer Sales Practices Act
- Credit Services Organizations Act
- Health Spa Services Protection Act
- Identity Fraud Act
- Motor Fuel Marketing Act
- Music Licensing Act
- New Motor Vehicles Warranties Act (lemon law)
- Prize Notices Regulation Act
- Personal Introduction Services Protection Act
- Telephone Fraud Prevention Act
- Telephone and Facsimile Solicitation Act
- Unfair Practices Act

A good licensing official will check in with this Division and find out about the Acts. These laws, or acts encompass various aspects of consumer protection including:
<table>
<thead>
<tr>
<th>Deceptive Advertising</th>
<th>Bait and Switch</th>
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<tr>
<td>Direct sales misrepresentations</td>
<td>Below cost selling</td>
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<tr>
<td>Pyramid scheme/plans</td>
<td>Consumer education</td>
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<tr>
<td>Travel scams</td>
<td>Home product sales</td>
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<tr>
<td>Work at home schemes</td>
<td>Chain letters</td>
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<tr>
<td>Fraudulent business opportunities</td>
<td>Free prize offers</td>
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<tr>
<td>New automobile warranty problems</td>
<td>Sweepstake guarantees</td>
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<tr>
<td>Mechanic &amp; garage repairs/overcharges</td>
<td>Door to door sales</td>
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<tr>
<td>Health spa contracts</td>
<td>Price discrimination</td>
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<tr>
<td>Consumer credit repair scams</td>
<td>Retail rain checks</td>
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<tr>
<td>Retail refunds</td>
<td>Telemarketing/recovery rooms</td>
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<tr>
<td>Unfair competition</td>
<td>Three day right to cancel</td>
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<tr>
<td>Credit repair clinics</td>
<td>“Free” ad offers</td>
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<tr>
<td>Repair complaints (other than motor vehicle)</td>
<td>Deceptive labeling</td>
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<tr>
<td>Automated telephone calls</td>
<td>Illegal charities</td>
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<td>Identity Theft</td>
<td>Dating services</td>
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The State Code requires that within 60 days of granting a license, you notify your county of every business that receives a license in your city. This is for purposes of determining property tax evaluations and charges. This will mean funds for your city so don’t neglect this requirement.

Remember, in many business licensing instances, state law supersedes municipal law. Knowing when and how is important. This is one very good reason to attend training classes with UBLA, talk with your own city’s attorney, interact with other business license officials, and refer to the State Code often.

5. **REQUIREMENTS OF THE FEDERAL GOVERNMENT**

A. **FEDERAL IDENTIFICATION NUMBER:** Each business that applies for a license and which has employees should have a Federal Identification Number. You should require this number on the application to help ensure that the business is a legitimate business.

B. **NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS):** Businesses are assigned a classification under the North American Industry Classification System (NAICS). This is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

You may or may not feel it important to keep this NAICS classification, but if you are a larger city, it will be a benefit to you to have the information that can be provided. To find out about the NAICS by visiting the website. This information can give you a good look at Utah’s economic makeup.

C. **FIRST AMENDMENT RIGHTS:** Whenever licensing any business, you must be aware that every person has First Amendment Rights, and those Rights must be protected. If your codes are not carefully written and followed, you may infringe upon these Rights. Following are some areas in which First Amendment Rights must be guarded, along with your city’s rights to protect the health, safety, and welfare of its citizens.

D. **SOLICITORS AND PEDDLERS IN INTERSTATE COMMERCE:** The law is simple; it’s the application of the law that becomes difficult. The law is: in order for a city or county to restrict, in any way, First Amendment Rights through its licensing powers, the restriction must be reasonable. Usually, a licensing restriction is reasonable if it is: a) content neutral, b) serves a legitimate governmental interest, c) leaves open, ample alternative channels of communication, and d) is narrowly tailored to serve the governmental
objective. This "reasonableness" test is applied to three different categories of restrictions: a) time, b) place, and c) manner.

E. SEXUALLY ORIENTED BUSINESSES: When a business comes to your city to open a SOB, and you have no ordinance in place governing where the business should go, background checks, special requirements, etc., your city must allow the business, and you will have problems in regulating it because you have no ordinance. No matter what the views of the licensing official, the mayor, the council, or any of the citizens might be on SOB’s, the actions of dancers, owners, sellers of adult materials, etc., are protected by First Amendment Rights because they are forms of expression. (Note: An excellent SOB ordinance can be obtained from West Valley City and adapted to your city. There is a great deal of material already available on the effects of such businesses on cities and neighborhoods, so you probably won't have to do your own studies. In order to protect your city, you will have to have a good ordinance already in your code, however, and you will need to zone an area where these businesses can locate).

6. MAIN AREAS OF BUSINESS LICENSING

Your code may or may not address these areas at the present time, but it is almost certain that you will address these in the future. It is much better to have your code in place when a business comes to town than to try to backpedal to get an ordinance to protect your citizens from those "less than desirable" businesses. You must be careful with your ordinances to make certain they don’t conflict with state law. You can be stricter than state law but not less strict. References that will be given are from the Utah Code Unannotated.

7. UTAH CODE REFERENCES

Athletic associations: Authority of cities to regulate. UCA 10-8-81

Auto body repair shops: These must be licensed with the state and your city and are regulated closely by the state as spelled out in UCA 41-3-105, 41-3-202 and 41-3-203 to end. Report to the state on any that apply in your city to make sure they are state licensed.

Beer Licensing: You must have your own city ordinance to regulate beer sales effectively. Any business selling beer for consumption on premises or selling liquor must be licensed by the state. A beer license ordinance, including the regulating of the local consent, is required before a license is issued by the Commission. A temporary beer sales permit can be obtained from the state, but you must have this included in your own ordinance. Please notice that the attached ordinance only requires a background check through BCI. You should be aware that this background check is performed only within the State of Utah. The Alcoholic Beverage Control Commission oversees these licenses UCA 32B-1-101 through end.

   Proximity regulations: UCA 32B-1-202
   Definition of beer: UCA 32B-1-602
   Wholesaler: UCA 32B-13-301
   Advertising: UCA 32B-1-206

Dram shop/on-premise consumption: UCA 32B-5-201(J), 32B-5-202(G), 32B-5-310(G), 32B-6-705

Cell Phone license: Is not a tax, but is a legitimate business license on telephone service. Please see UCA 10-1-401 for rules applicable to Cell Phones
City authority to license: Cities can require license for businesses, [UCA 10-1-203](https://www.legislature.utah.gov/).

Contractors: State requires license with them. Please see [UCA 58-55-302](https://www.legislature.utah.gov/) for rules regarding contractors.

Firearms sales: A federal license is required to sell guns. You can call and ask the Department of the Treasury-Bureau of Alcohol, Tobacco, and Firearms to send you a list of those selling guns in your city. Call or write the division field office: 950 17th Street, Suite 1800, Denver, CO 80202, (303) 575-7600. Better yet, access the Federal Firearms Regulations Reference Guide.

State regulations on firearms for manufacturers and sellers are found at [UCA 53-5-703](https://www.legislature.utah.gov/) or Utah Department of Public Safety. Here in Utah, regulation of firearms is reserved to the state.

Food sales: Any food sold should have county or city health department approval.

Also, Utah Department of Agriculture and Food approval is required especially for those selling packaged good items they make themselves. You may contact them at:

**Utah Department of Agriculture and Food**

Division of Regulatory Services  
350 North Redwood Rd  
Salt Lake City, Utah, 84114-6500  
801-538-7100

Other resources include the [U.S. Department of Agriculture](https://www.usda.gov/) website

Or, [Food Safety](https://www.fda.gov) website.

Fund raisers: Fundraisers should be registered with the state. See [UCA 13-22-2](https://www.legislature.utah.gov/) to end. Even those firefighter associations need to register with the state.

Home occupations: This is entirely up to your local governing council. You can call the Business Licensing Administrator of any city to get a copy of different ordinances.

Insurance companies: Cities cannot require payment of license fees, pre-empted by state, [UCA 31A-1-102](https://www.legislature.utah.gov/). They can require a business license, however.

Liquor Licensing: Governed by the Utah Department of Alcoholic Beverage Control. Contact Rob Hansen at (801) 977-6808, if you need help. Their address is: Utah Department of Alcoholic Beverage Control, 1625 South 900 West, Salt Lake City, UT 84104, (801) 977-6800.

Massage therapists: State and local jurisdiction, [UCA 58-47b-305](https://www.legislature.utah.gov/). Preempted for professional regulations by state; cities can only require license to do business.

Offensive businesses: To see what you can do about an offensive business, see [UCA 10-8-66](https://www.legislature.utah.gov/).

Peddler selling own produce: A peddler selling produce he/she has grown on his/her own property and selling from that property is protected under Department of Agriculture regulations. Please see Food Sales above for reference sites.

Pre-school/Daycare: You should have your own local ordinance regulating where these can be located and how you will regulate them.

Rental Dwellings: Yes, you can license these. If you are going to regulate the rentals, it is vital that you check the UCA to see what you can and cannot do. See UCA 10-8-85.5.

Security companies: Must be licensed with the state. See: UCA 58-63-301.

Sexually Oriented Businesses: Already covered under Federal Requirements and First Amendment Rights. These may only be licensed where specified by your code.

Watkins/Tupperware/Avon/etc.: These are considered home occupation businesses. Any person selling/conducting business from home should have a home occupation license. See UCA 10-1-203(7)(b) Recent legislation SB 81 changed the licensing requirements for these types of businesses.

Provisions for businesses of all sorts: Look in the Utah Code under Occupations and Professions.

CHAPTER 15 – INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS

www.iimc.com

1. OUR MISSION

The International Institute of Municipal Clerks (IIMC) is a professional, nonprofit association that promotes continuing education and certification through university and college-based institutes and provides networking solutions, services and benefits to its members worldwide.

2. LEADING PROFESSIONAL ASSOCIATION SINCE 1947

Founded in 1947, the International Institute of Municipal Clerks is the leading professional association serving the needs of municipal clerks, secretaries, treasurers, recorders and other allied associations from cities and towns worldwide.

3. INSPIRING ADVANCEMENT & DEVELOPMENT

IIMC’s primary goal is to actively promote the continuing education and professional development of municipal clerks through extensive education programs, certification, publications, networking, annual conferences and research. As an educational catalyst, IIMC inspires clerks to expand and advance beyond their present levels of development.

IIMC also engages in municipal research administration, enhances critical professional skill development and fosters a spirit of mutual assistance and good fellowship among municipal clerks around the globe.

4. MEMBERSHIP & BOARD OF DIRECTORS

IIMC’s 9,500-plus members represent municipalities with populations ranging from 250 people to more than 10 million people in North America and 15 other countries.

IIMC is governed by a 26-member Board of Directors with 22 directors from IIMC's 11 regions.
5. REGION INFORMATION

Utah belongs to Region VIII which includes Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming. The Region Directors are:

**Elizabeth Burke, MMC**
City Clerk  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, AZ 86001  
Ph: (928) 213-2076  
Fax: (928) 213-2059

**RaNae M. Edwards, MMC**
City Clerk  
City of Grand Island  
P.O. Box 1968  
Grand Island, NE 68802-1968  
Ph: (308) 385-5444 X111  
Fax: (308) 385-5486

EBurke@flagstaffaz.gov  
redwards@grand-island.com

Term expires 2019  
Term expires 2020

6. CERTIFICATION SPECIALIST

Ashley (Carroll) DiBlasi  
8331 Utica Avenue, Suite 200  
Rancho Cucamonga, CA 91730  
Ph: (909) 944-4162  
Fax: (909) 944-8545

Ashley@iimc.com

7. CERTIFIED MUNICIPAL CLERK (CMC) PROGRAM

The CMC program is designed to enhance the job performance of the Clerk in small and large municipalities. To earn the CMC designation, a Municipal Clerk must attend extensive education programs. The CMC designation also requires pertinent experience in a municipality. The CMC program prepares the applicants to meet the challenges of the complex role of the Municipal Clerk by providing them with quality education in partnership with institutions of higher learning, as well as State / Provincial / National Associations. The CMC program has been assisting clerks to excel since 1970.

8. MASTER MUNICIPAL CLERK (MMC) PROGRAM

The MMC program is one of the two professional designations granted by IIMC. The MMC program is an advanced continuing education program that prepares participants to perform complex municipal duties. The program has an extensive and rigorous educational component and a professional and social contribution component. The MMC applicant must demonstrate that they have actively pursued education and professional activities.

9. APPLICATION FOR ADMISSION

Filing an Application for Admission with IIMC is the first step in working toward the Certified Municipal Clerk designation (CMC) or the Master Municipal Clerk (MMC) designation. This is the enrollment form for both certification programs. The purpose of this application is to register applicants into the IIMC system and keep them informed of education opportunities that IIMC institutes may offer.
There is a non-refundable application fee of $50 to enter into either program – it will be deducted from the final fee for application for the CMC or MMC Designation. When ready to submit for points, the applicant will be required to complete an Application for Designation (point request form), attach supporting documentation and present to the Education Department for review.
SAMPLE FORMS

CLOSED MEETING SWORN STATEMENT

(Required by UCA 52-4-206(6)(a))

I, ____________________, swear, as the person presiding at this closed meeting, that the sole purpose for closing the meeting was to discuss the following:

The character, professional competence, or physical or mental health of an individual; or

The deployment of security personnel, devices, or systems.

Sworn to and executed this _____ day of ________________, 20 ___.

______________________________________________

Presiding Officer

STATE OF UTAH   )
COUNTY OF UTAH   ) ss.

Subscribed and sworn to this _____ day of ________________, 20____, by

______________________, Presiding Officer.

______________________________________________

Notary Public

My Commission Expires: _____

Residing at: __
GENERAL ORDINANCE

CITY OF ________________

ORDINANCE #10-2018

An Ordinance Amending Title 13 of the Code of Ordinance of the City of ______________ by enacting a new Chapter to be known as Chapter 13.63 Pertaining to Limited Use Zone.

WHEREAS, the Planning commission of the City of ______________ (the "Commission") has recommended that a new zoning chapter pertaining to Limited Use Zone; and

WHEREAS, a public hearing was held on ______ to receive public input and comment regarding the proposed new text pertaining to Limited Use Zone; and

WHEREAS, no adverse comments were received during said hearing; and

WHEREAS, the Municipal Council of the City of ______________ (the "Council") held a public hearing on _____ to consider said recommendations;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of ______________, Utah, as follows:

SECTION 1: This ordinance will become effective one day after publication hereof in the manner required by law.

ADOPTED by the City Council of ______________, Utah, this _____ day of ______, 20__.

________________________________________________________ Mayor

ATTEST:

________________________________________________________ City Recorder
GENERAL ORDINANCE (2nd page)

ORDINANCE: #10-2018

SHORT TITLE: AN ORDINANCE AMENDING TITLE 13 OF THE CODE OF ORDINANCE OF THE CITY OF ____________________ BY ENACTING A NEW CHAPTER TO BE KNOWN AS CHAPTER 13.63 PERTAINING TO LIMITED USE ZONE.

PASSAGE BY THE __________________ CITY COUNCIL

ROLL CALL

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<th>NAME</th>
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This ordinance was passed by the City Council of __________________, Utah on the ___ day of ___, 20___, on a roll call vote as described above.

Approved and signed by me this ___ day of ___, 20__.

Mayor

ORDINANCE #10-2018

CITY RECORDER’S CERTIFICATE AND ATTESTATION

This ordinance was recorded in the office of the _____ City Recorder on the ___ day of ___, 20___, with a short summary being published on the ___ day of ___, 20___; in the _____, a newspaper published in ______________ Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance #10-2018

Signed this ___ day of ___, 20__

_________________________________
City Recorder

176
A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT PROVIDING FOR 911 DISPATCH SERVICE.

WHEREAS, the City is authorized by law to provide emergency telephone service for the protection of its citizens and to enter into an Interlocal Agreement with other public entities to provide such service on a joint cooperative basis; and

WHEREAS, the City has in the past entered into an Interlocal Agreement with _____________ County to provide emergency telephone service; and

WHEREAS, the City believes that the furnishing of emergency telephone service through the County's telephone system will be more economical and effective than through individual effort of the City or any other method available.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ___________________, UTAH, AS FOLLOWS:

SECTION 1. Authorization: That the Interlocal Agreement hereto attached between ______________ County and ______________ City for 911 dispatch service within ______________ City to its citizens is hereby approved and the Mayor and City Recorder are authorized to execute said Interlocal Agreement and any other documents necessary and proper to accomplish the purposes of this Resolution.

SECTION 2. Severability: If any section, clause or portion of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

SECTION 3. Effective Date: This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED this ___day of ______, 20__.  

By ____________________________  
Mayor

ATTEST

______________________________  
City Recorder
RESOLUTION #2018-14

SHORT TITLE: A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT PROVIDING FOR 911 DISPATCH SERVICE.

PASSAGE BY THE CITY COUNCIL

ROLL CALL

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This resolution was passed by the City Council of the city of _____________________, on the ___ day of ____ , 20__, on a roll call vote as described above.

Approved and signed by me this ___day of ____ , 20__.

____________________________________
Mayor

ATTEST:

__________________________________
City Recorder
BUDGET RESOLUTION

RESOLUTION #2018-12

A RESOLUTION ADOPTING THE FISCAL YEAR 20__-20__ BUDGET OF FUNDS AND ACCOUNTS FOR __________________________ CITY, UTAH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Uniform Fiscal Procedures Act for Utah Cities, the City has heretofore adopted a tentative budget setting forth revenues and expenditures for the fiscal year ending June 30, 20__; and

WHEREAS, in accordance with the law a public hearing has been held on the proposed tentative budget and comments received relating thereto;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF _________________________ CITY, STATE OF UTAH:

SECTION 1. Adoption: That the Fiscal Year 20__-20__ Budget be hereby adopted, including all funds and accounts as shown in the budget format attached and dated _________________________, 20__.

SECTION 2. Effective Date: This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED this ___day of _____, 20__.

By ____________________________
Mayor

ATTEST

___________________________
City Recorder
RESOLUTION #2018-12

SHORT TITLE: A RESOLUTION ADOPTING THE FISCAL YEAR 20__-20__ BUDGET OF FUNDS AND ACCOUNTS FOR __________________________ CITY, UTAH AND PROVIDING AN EFFECTIVE DATE.

PASSAGE BY THE CITY COUNCIL

ROLL CALL

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<th>NAME</th>
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TOTALES

This resolution was passed by the City Council of the City __________________________, on the __ day of ____, 20__, on a roll call vote as described above.

Approved and signed by me this __ day of ____, 20__.

________________________________________
Mayor

ATTEST:

______________________________
City Recorder
ORDINANCE
ORDINANCE #05-2018

AN ORDINANCE AMENDING SECTION _______________ OF THE _______________ CITY CODE TO ALLOW FOR THE INITIAL TERM OF THE CULTURAL ARTS ADVISORY COMMISSION

WHEREAS, _______________ City Council recently enacted Article _______________ of the City Code, which established the Cultural Arts Advisory Commission; and

WHEREAS, the original ordinance called for a membership of seven individuals to serve on the commission; and

WHEREAS, the City Council amended the membership provision of the ordinance in order to allow thirteen members on the commission, so that there will be representation of a wider range of citizens and interests;

WHEREAS, the City Council now desires to amend the initial term limits to reflect the additional members;

NOW THEREFORE, Be it ordained by the City Council of the City of _______________, Utah, as follows:

SECTION 1. The City Council hereby amends Section _______________ of the _______________ City Code to read as follows:

______________. Term of Office.

A. The term of office for each member of the Arts Commission shall be four (4) years. The term of office of the initial members of the Commission shall be staggered so that five (5) members are in office for four (4) years, four (4) members are in office for three (3) years, and four (4) members are in office for two (2) years.

SECTION 2. All resolutions, ordinances, and policies in conflict herewith, either in whole or in part, are hereby repealed.

SECTION 3. This ordinance shall become effective immediately upon publication or posting as set forth by State law.

ADOPTED by the City Council of _______________ City this ___ day of ______, 20__.

________________________________________
Mayor

ATTEST:

____________________________
City Recorder
ORDINANCE (2nd page)

ORDINANCE #05-2018

SHORT TITLE: AN ORDINANCE AMENDING SECTION _______________ OF THE ______________ CITY CODE TO ALLOW FOR THE INITIAL TERM OF THE CULTURAL ARTS ADVISORY COMMISSION

PASSAGE BY THE SPRINGVILLE CITY COUNCIL

ROLL CALL

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<td>TOTALS</td>
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This ordinance was passed by the City Council of _______________, Utah on the ___ day of _____, 20__, on a roll call vote as described above.

Approved and signed by me this ___ day of ____, 20__.

____________________________________
Mayor

ORDINANCE #05-2018

CITY RECORDER’S CERTIFICATE AND ATTESTATION

This ordinance was recorded in the office of the _____ City Recorder on the ___ day of _____, 20__, with a short summary being published on the ___ day of _____, 20__; in the _____, a newspaper published in _________________, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance #05-2018

Signed this ___ day of____, 20__

____________________________________
City Recorder
RESOLUTION

RESOLUTION #2018-12

A RESOLUTION BY THE __________________________ CITY COUNCIL APPROVING A CONDITIONAL USE PERMIT FOR TWO LDS CHAPELS AT 800 SOUTH 800 EAST

WHEREAS, on December 1, 2003, Butler and Evans Architects filed an application with the City of __________________________ requesting approval of a conditional use permit for Standard Land Use Code 6911, Church, at 800 South 800 East, in the R8 Zone; and

WHEREAS, the applicant’s request complies with all applicable City Codes, provided the City Council under authority of Section 22-15-3(C) approves the additional parking as requested by the applicant; and

WHEREAS, on January 22, 2004, the Planning Commission recommended approval of this request; and

WHEREAS, a public meeting to consider the subject application was held before the City Council on February 10, 2004; and

WHEREAS, the matter having been submitted and the City Council having fully considered the request as it relates to the health, safety, and general welfare of the city; the orderly development of land in the city; the effect upon the surrounding neighborhood; the compliance of the request with all applicable City ordinances and the _________________ General Plan; and the special conditions applicable to the request.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF __________________________, STATE OF UTAH, AS FOLLOWS:

SECTION 1. The City Council hereby finds the applicant’s request is appropriate at the desired location with the additional parking as requested.

SECTION 2. AUTHORIZATION; The City Council hereby approves the request of Butler and Evans Architects for a conditional use permit for Standard Land Use Code 6911, Church, at 800 South 800 East, with the condition that the site be developed and maintained as set forth on the approved site plan, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

SECTION 3. ADOPTION; this resolution shall take effect immediately upon passage.

SECTION 4. All other resolutions and policies in conflict herewith, either in whole or in part, are hereby repealed.

PASSED AND ADOPTED this ___day of ______, 20__.

By __________________________
Mayor

ATTEST

___________________________
City Recorder
RESOLUTION (2nd Page)

CITY COUNCIL OF THE CITY OF _________________________

RESOLUTION NUMBER: #2018-12

SHORT TITLE: A RESOLUTION BY THE ______________________ CITY COUNCIL APPROVING A CONDITIONAL USE PERMIT FOR TWO LDS CHAPELS AT 800 SOUTH 800 EAST

PASSAGE BY THE CITY COUNCIL

ROLL CALL

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This resolution was passed by the City Council of the city of _______________, on the __ day of ___, 20__, on a roll call vote as described above.

Approved and signed by me this __ day of ___, 20__.

____________________________________
Mayor

ATTEST:

____________________________________
City Recorder
RESOLUTION

RESOLUTION #2018-16

A RESOLUTION OF THE ____________________ CITY COUNCIL PROCLAIMING APRIL 30, 1999, AS ARBOR DAY IN ____________________.

WHEREAS, in 1872 the State of Nebraska set aside one day for the planting of trees; and

WHEREAS, that day, April 30th, is now recognized nationally as Arbor Day; and

WHEREAS, trees beautify the landscape, enhance property values, moderate the temperature, clean the air, reduce erosion and provide habitat for wildlife; and

WHEREAS, _____________________ has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting practices;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ____________________, UTAH as follows:

SECTION 1. April 30, 1999, is hereby declared to be Arbor Day in the City of ____________________.

SECTION 2. Citizens are encouraged to improve the quality of life in ____________________ by planting trees on that day.

SECTION 3. This resolution shall become effective immediately upon passage.

PASSED AND ADOPTED this ___day of _____, 20__.

By ____________________________
Mayor

ATTEST

______________________________
City Recorder
RESOLUTION (2nd Page)

CITY COUNCIL OF THE CITY OF ______________________

RESOLUTION NUMBER: #2018-16

SHORT TITLE: A RESOLUTION OF THE _______________ CITY COUNCIL PROCLAIMING APRIL 30, 2018, AS ARBOR DAY IN _________________

PASSAGE BY THE CITY COUNCIL

ROLL CALL

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This resolution was passed by the City Council of the city of ______________________, on the ___ day of ____, 20__, on a roll call vote as described above.

Approved and signed by me this ___day of ____, 20__.

____________________________________
Mayor

ATTEST:

__________________________________
City Recorder
PROCLAMATION

MUNICIPAL CLERKS WEEK PROCLAMATION

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants, and

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community.

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW THEREFORE, I, _______________, MAYOR OF THE CITY OF _______________________, UTAH, do recognize the week of ______ through _____, 20__, as Municipal Clerks Week and extend appreciation to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this ___day of ____, 20__.

____________________________________
Mayor

ATTEST:

____________________________________
City Recorder
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<tr>
<th>DATE</th>
<th>REQUIRED TASK</th>
<th>COMPLETED</th>
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<tr>
<td>February 1, 2015</td>
<td>On or before, publish a notice identifying the municipal offices to be voted on, and the dates for filing</td>
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<td>a declaration of candidacy; publish notice according to UCA 10-3-301</td>
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<tr>
<td>March 2015</td>
<td>Review State Legislative Bills passed which involve elections</td>
<td></td>
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<tr>
<td>Suggested Date</td>
<td>Send letter to School District Superintendent about need to schedule building(s) for election before</td>
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<tr>
<td>April 2, 2015</td>
<td>school year ends (optional)</td>
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<td>End of April 2015</td>
<td>Bring City Code into compliance with any changes, if necessary</td>
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<td>Suggested Date</td>
<td>Prepare Candidates Guide (Optional)</td>
<td></td>
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<tr>
<td>May 2015</td>
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<tr>
<td>Suggested Date</td>
<td>Determine Consolidation of Voting Precincts</td>
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<td>May 1, 2015</td>
<td>UCA 20A-5-301</td>
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<tr>
<td>May 4, 2015</td>
<td>Election officer shall have election notice prepared for military-overseas voters for their jurisdiction</td>
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<td>with all ballot propositions, federal, state and local offices expected to be on the ballot on the date</td>
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<td>of the election 100 days before election. UCA 20A-16-502</td>
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<td>Suggested Date</td>
<td>Schedule Facility(s) for election night results – both Primary &amp; General Elections (Optional)</td>
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<tr>
<td>May 2015</td>
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<tr>
<td>Suggested Date</td>
<td>Coordinate with vendor for election equipment (if applicable)</td>
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<tr>
<td>May 2015</td>
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<tr>
<td>Suggested Date</td>
<td>Schedule Polling Locations (School Principals, etc.)</td>
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<td>May 13, 2015</td>
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<td>Suggested Date</td>
<td>Send Confirmation Letter to Polling Locations (School Principals) that details the dates, times, and</td>
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<tr>
<td>May 20, 2015</td>
<td>accommodations needed</td>
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<td>DATE</td>
<td>REQUIRED TASK</td>
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<tr>
<td>Suggested Date</td>
<td>Call County Clerk to get Number of Registered Voters per Voting Precincts</td>
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<tr>
<td>May 2015</td>
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<tr>
<td>Suggested Date</td>
<td>Send Cover Letter and Application to Poll Workers used in last County election</td>
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<tr>
<td>May 2015</td>
<td>(Get list from County) and last municipal election</td>
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<tr>
<td>Suggested Date</td>
<td>Coordinate with Contacts about doing Meet the Candidates Night for the</td>
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<td>May 29, 2015</td>
<td>General Election <em>(optional)</em></td>
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<tr>
<td>June 1, 2015</td>
<td>Candidate Filing Period Begins. Declaration of Candidacy Forms or Nomination</td>
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<td>Petition must be filed in person with the City Recorder <strong>UCA 20A-9-207</strong></td>
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<td>Suggested Date</td>
<td>Send Consolidation List and Number of Registered Voters to Printers</td>
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<td>June 1, 2015</td>
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<td>Suggested Date</td>
<td>Email the County a copy of the Consolidated Voting Districts</td>
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<td>June 1, 2013</td>
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<td>Suggested Date</td>
<td>Order large County Voting District Maps and Consolidated Voting District Maps</td>
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<td>June 1, 2015</td>
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<td>Suggested Date</td>
<td>Put Notice in Newspaper - Poll Workers of Election Needed</td>
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<td>June 2015</td>
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<tr>
<td>Suggested Date</td>
<td>Inventory Ballot Boxes, Flags, Voting Booths and Signs</td>
<td></td>
</tr>
<tr>
<td>June 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Mail Election Poll Worker Letters (regular Poll Workers, supply Poll Workers,</td>
<td></td>
</tr>
<tr>
<td>June 2015</td>
<td>&amp; alternate Poll Workers), Invitation to Training, list of candidates, and list</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poll Workers working with them as applicable</td>
<td></td>
</tr>
<tr>
<td>June 8, 2015</td>
<td>Candidate Filing Period Closes <strong>UCA 20A-9-203</strong></td>
<td></td>
</tr>
<tr>
<td>June 8, 2015</td>
<td>Send Candidate List to Lt. Governor’s Office for random selection of name</td>
<td></td>
</tr>
<tr>
<td></td>
<td>placement for ballots – <em>The random ballot order was already created in 2012.</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>You can see it at <strong><a href="http://www.elections.utah.gov/Media/Default/Documents/elections%20resource">http://www.elections.utah.gov/Media/Default/Documents/elections%20resource</a></strong></td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>REQUIRED TASK</td>
<td>COMPLETED</td>
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</tr>
<tr>
<td>June 8, 2015</td>
<td>Send Candidate List to County Clerk</td>
<td></td>
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<tr>
<td></td>
<td>Send Candidate List to printer for ballot printing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Publish list of Candidates nominated (Immediately after the declaration period closes on June 7 20A-9-203 (8) (9) so we list the date as June 8.</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Plan and prepare Candidates Orientation, including Orientation Packets and Information. Order food for Orientation (if applicable)</td>
<td></td>
</tr>
<tr>
<td>June 16 – 18, 2015</td>
<td>Candidate Orientation Meeting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Last day for submitting a written objection to a candidate filing – 5 days after end of declaration of candidacy. UCA 20A-16-403</td>
<td></td>
</tr>
<tr>
<td>June 15, 2015</td>
<td>Last day for submitting a written objection to a candidate filing – 5 days after end of declaration of candidacy. UCA 20A-9-203(11)(a)</td>
<td></td>
</tr>
<tr>
<td>June 26, 2015</td>
<td>Ballots must be transmitted to Military and Overseas voters that have requested a ballot (45 days before election) UCA 20A-16-403</td>
<td></td>
</tr>
<tr>
<td>June 29, 2015</td>
<td>Deadline for candidates to submit 200-word blurb for State website and voter information pamphlet. UCA 20A-7-801(4)(a)(ii)</td>
<td></td>
</tr>
<tr>
<td>July 1, 2015</td>
<td>Mail out Poll Worker training session letter to Poll Workers</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Prepare information packets and handouts for Poll Workers Training (presentation summary, appointment cards, and poll workers instruction) (optional)</td>
<td></td>
</tr>
<tr>
<td>July 6, 2015</td>
<td>Contact staff/parks supervisor/public works about getting assistance in booth, ballot box, and flag delivery (optional)</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Send reminder postcards to schools about primary election if primary is needed (optional)</td>
<td></td>
</tr>
<tr>
<td>July 6, 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>REQUIRED TASK</td>
<td>COMPLETED</td>
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<tr>
<td>July 13, 2013</td>
<td>Check the list for precinct supplies and order anything needed. <em>(optional)</em></td>
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</tr>
<tr>
<td></td>
<td>Last day a resident can establish residency <em>(30 days before primary)</em> UCA 20A-2-101</td>
<td></td>
</tr>
<tr>
<td>July 13, 2015</td>
<td>Last date the County will accept mail-in voter registration forms for the Primary Election <em>(postmarked 30 days before election)</em> UCA 20A-2-102.5</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Absentee Ballots to be mailed 28 days before election day. UCA 20A-3-305(1)(B) Absentee Ballots can be requested in person up through the Thursday before the election day (August 6). UCA 20A-3-306(2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>If conduction an entire election by mail (absentee ballot) the election officer shall adhere to requirement in UCA 20A-3-302, 605</td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Date</strong></td>
<td>Poll Worker Training Session</td>
<td></td>
</tr>
<tr>
<td><strong>Submission Deadline</strong></td>
<td>Publish notice about early voting – dates, times and locations <em>(five days before the date early voting begins)</em> UCA 20A-3-604</td>
<td></td>
</tr>
<tr>
<td>July 16, 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Publication Date on or before</strong></td>
<td>Publish notice about early voting at each early voting – dates, times and locations <em>(five days before the date early voting begins)</em> UCA 20A-3-604</td>
<td></td>
</tr>
<tr>
<td>July 23, 2015</td>
<td></td>
<td></td>
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<tr>
<td>July 25, 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>July 21, 2015</td>
<td>Mail Sample Ballot for primary election to candidates and Lt. Governor’s Office, also post in office <em>(seven days before the commencement of voting – early voting begins July 28, 2015)</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>UCA 20A-5-405</td>
<td></td>
</tr>
<tr>
<td>July 23, 2015</td>
<td>Last day clerks shall publish notice of times, dates, and locations for early voting <em>(five days before the date early voting begins July 28, 2015)</em> UCA 20A-3-604</td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>REQUIRED TASK</td>
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</tr>
<tr>
<td><strong>Suggested Date</strong>&lt;br&gt;July 21, 2015</td>
<td>Mail reminder about 1st Campaign Financial Disclosure deadline to candidates—include additional forms. <em>(if municipality requires filing prior to a primary election)</em></td>
<td></td>
</tr>
<tr>
<td>July 27, 2015 or before</td>
<td>The governing body shall appoint three poll workers and an alternate for each polling place <em>(at least 15 days before the election)</em></td>
<td></td>
</tr>
<tr>
<td>Submission Deadline&lt;br&gt;July 29, 2015</td>
<td>Publish notice about electronic voting equipment test <em>(must publish at least 48 hours before test)</em> UCA 20A-4-104(1)(b)</td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Publication Date</strong>&lt;br&gt;July 31, 2015</td>
<td>Election officer shall have election notice prepared for military-overseas voters for their jurisdiction with all ballot propositions, federal, state and local offices expected to be on the ballot on the date of the election 100 days before election. <strong>UCA 20A-16-502</strong></td>
<td></td>
</tr>
<tr>
<td>July 27, 2015</td>
<td>Last date the County Clerk can register voters in office and voters may still early vote. UCA 20A-2-201, 206</td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Date</strong>&lt;br&gt;July 27, 2015</td>
<td>Put together precinct supplies for early voting <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>July 27, 2015</td>
<td>When using voting centers - notify Lt. Governor’s office of voting center designation and locations for election day <strong>UCA 20A-3-703</strong></td>
<td></td>
</tr>
</tbody>
</table>
| July 28, 2015 | **Early Voting Begins** UCA 20A-3-601 *(optional early voting for fifthclass municipality or town – UcA 20A-3-605)*  
**NOTE:** A municipality that administers an election entirely by absentee ballot is not required to conduct early voting for the election. | |
| **Suggested Date**<br>July 29, 2015 | Poll Worker Training Session *#2 (optional)* | |
| **Suggested Date**<br>July 30, 2015 | Publish notice of Primary Election *(date, time, locations, voting requirements, sample ballot, and map--optional)*  
**UCA 20A-5-405(1)(j)(ii)** | |
<table>
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<tr>
<th>DATE</th>
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<tbody>
<tr>
<td>Suggested Date</td>
<td>Send staff/parks supervisor/public works the delivery sheets for election equipment <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>August 3, 2015</td>
<td>Last day a voter may register at the County Clerk’s office and vote in primary election. They cannot vote early. UCA 20A-2-201</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Select Precanvass Team <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>August 4, 2015</td>
<td>Begin assembling the precinct packets (election supplies) <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>August 3, 2015</td>
<td>DEADLINE for Campaign Finance Disclosure #1 filings <em>(if municipality requires filing prior to a primary election)</em></td>
<td></td>
</tr>
<tr>
<td>August 6, 2013</td>
<td>Last day a voter may register online and vote in the primary election. They cannot vote early. UCA 20A-2-206</td>
<td></td>
</tr>
<tr>
<td>August 4, 2015</td>
<td>DEADLINE for Campaign Finance Disclosure #1 filings <em>(if municipality requires filing prior to a primary election)</em></td>
<td></td>
</tr>
<tr>
<td>August 5, 2015</td>
<td>Post Campaign Finance Disclosure Documents online - Send link to Lt. Governor’s office <em>(if municipality requires filing prior to a primary election)</em></td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Poll Worker Training Session #3 <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>August 5, 2015</td>
<td>Toward the end of early voting, have the poll workers begin the list per precinct of all early voters <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Pick up Official Registers from County if available <em>(not statutory date; to be delivered by noon on the day before the election)</em> UCA 20A-5-205</td>
<td></td>
</tr>
<tr>
<td>Before August 7, 2015</td>
<td>Last day to request Absentee Ballot <em>(Thursday before election day)</em> UCA 20A-3-306(2)(a)(i)</td>
<td></td>
</tr>
<tr>
<td>August 7, 2015</td>
<td>Last day to vote early UCA 20A-3-601</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Prepare for electronic voting equipment test</td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>REQUIRED TASK</td>
<td>COMPLETED</td>
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<tr>
<td>August 7, 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>August 10, 2015</td>
<td>Put Early Voting and Absentee Voters Lists in with election supplies <em>(not statutory date)</em></td>
<td></td>
</tr>
<tr>
<td>August 10, 2015</td>
<td>Deliver Voting Booths; deliver ballot boxes before noon on the day before election UCA 20A-5-407</td>
<td></td>
</tr>
<tr>
<td>August 10, 2015</td>
<td>Electronic voting equipment test</td>
<td></td>
</tr>
<tr>
<td>August 10, 2015</td>
<td>Deliver ballots and election supplies to each Poll Managers/Workers UCA 20A-5-406</td>
<td></td>
</tr>
<tr>
<td>August 11, 2015</td>
<td>Primary Election Day</td>
<td></td>
</tr>
<tr>
<td>August 12, 2015</td>
<td>Pick up Voting Booths, Boards, Ballot Boxes, and Flag Signs from polling locations</td>
<td></td>
</tr>
<tr>
<td>August 12, 2015</td>
<td>Election officers shall determine and make available to the public the number of absentee ballots received UCA 20A-3-309(4)(a)</td>
<td></td>
</tr>
<tr>
<td>August 13 - 21, 2015</td>
<td>Recorder to review results of precanvass, identify problem areas, get answers to questions, and prepare memorandum to Council of all differences noted and changes made</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>August 18, 2015</td>
<td>Election officer shall notify a voter if the voter’s absent-ballot has been rejected and specify the reason for the rejection, no later than seven days after election day UCA 20A-3-308(5)(a)</td>
<td></td>
</tr>
<tr>
<td>August 18, 2015</td>
<td>Post list of Provisional Ballots numbers to the webpage <em>(requirement for county clerk, optional for municipality)</em> UCA 20A-6-105.5</td>
<td></td>
</tr>
<tr>
<td>August 25, 2015</td>
<td>City Council canvasses election returns from Primary UCA 20A-4-301(2)(b)(i)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>UCA 20A-16-408 says that a military-overseas ballot is valid if it is received up through 13 days after the election. With that in mind if there are outstanding military ballots a city really cannot canvass until 14 days after.</td>
<td></td>
</tr>
<tr>
<td>DATE</td>
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<tr>
<td>August 25, 2015</td>
<td>Send Lt. Governor results of Primary Election Canvass <strong>UCA 20A-4-304</strong></td>
<td></td>
</tr>
<tr>
<td>August 26, 2015</td>
<td>Mail successful candidates each a Certificate of Nomination <strong>UCA 20A-4-304(2)(c)(ii)</strong></td>
<td></td>
</tr>
<tr>
<td>August 28, 2013</td>
<td>Publish Certification of Primary Election <strong>UCA 20A-4-304(2)(c)(ii)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Date</strong></td>
<td>Send Candidate List to Programmer for ballot programming</td>
<td></td>
</tr>
<tr>
<td>August 28, 2013</td>
<td>Send Candidate List to printer for ballot printing</td>
<td></td>
</tr>
<tr>
<td>September 12, 2013</td>
<td>Deadline for Campaign Financial Reporting Statement for Candidates NOT successful in the Primary <strong>(due 30 days after primary) UCA 10-3-208(2)(a)(iii)</strong></td>
<td></td>
</tr>
<tr>
<td>September 6, 2013</td>
<td>Last day a write-in candidate can file and pay filing fee, 60 days before the general election. <strong>UCA 20A-9-601 (HB 39 – 2013)</strong></td>
<td></td>
</tr>
<tr>
<td>September 20, 2013</td>
<td>Ballots must be transmitted to Military and Overseas voters that have requested a ballot (45 days before election) <strong>UCA 20A-16-403</strong></td>
<td></td>
</tr>
<tr>
<td>Barnett 2013</td>
<td>Coordinate with programmer for electronic test date &amp; time</td>
<td></td>
</tr>
<tr>
<td>October 6, 2013</td>
<td>Last day a new resident of Utah can establish a 30-day voting residency for the general election <strong>UCA 20A-2-101</strong></td>
<td></td>
</tr>
<tr>
<td>October 7, 2013</td>
<td>Last day the County will accept mail-in voter registration forms for the General Election <strong>(30 days before election) UCA 20A-2-102.5(2)</strong></td>
<td></td>
</tr>
<tr>
<td>October 8, 2013</td>
<td>Absentee Ballots to be mailed 28 days before election day. Absentee Ballots can be requested up through the <strong>Thursday</strong> before the election. <strong>UCA 20A-3-305</strong></td>
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<td>DATE</td>
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<tr>
<td>October 13, 2013</td>
<td>Last day that a candidate can withdraw (in writing) UCA 20A-9-203(12)</td>
<td></td>
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<tr>
<td></td>
<td>(withdraw up to 23 days before an election)</td>
<td></td>
</tr>
<tr>
<td>Publication Date on or before October 17, 2013</td>
<td>Publish notice about early voting – dates, times and locations <em>(five days before the date early voting begins)</em> UCA 20A-3-604</td>
<td></td>
</tr>
<tr>
<td>October 18, 2013</td>
<td>Last day to mail reminder about Campaign Financial Report for Candidates <em>successful</em> in the Primary Election. Include a sample ballot for General Election, Canvass results of Primary Election UCA 20A-11-103</td>
<td></td>
</tr>
<tr>
<td>October 21, 2013</td>
<td>Last date the County Clerk can register voters in office and online <em>(15 days prior to election)</em> UCA 20A-2-201, 206</td>
<td></td>
</tr>
<tr>
<td>October 21, 2013</td>
<td><em>When using voting centers</em> - notify Lt. Governor’s office of voting center designation and locations for election day UCA 20A-3-703</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Put together Precinct Supplies for Early Voting <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>October 21, 2013</td>
<td></td>
<td></td>
</tr>
<tr>
<td>October 21 or before</td>
<td>The governing body shall appoint three poll workers and an alternate for each polling place <em>(at least 15 days before the election)</em> UCA 20A-5-602</td>
<td></td>
</tr>
<tr>
<td>October 22, 2013</td>
<td>Early Voting Begins UCA 20A-3-601 <em>(Optional early voting for fifth class municipality or town - UCA 20A-3-605)</em></td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Publish Notice of General Election (Date, Time, Locations, Voting Requirements, Sample Ballot) <em>(must publish 2 days before election)</em> UCA 20A-5-101</td>
<td></td>
</tr>
<tr>
<td>October 24, 2012</td>
<td>Notify candidates in writing about the upcoming campaign financial disclosure and deadline</td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Send Staff/Parks Supervisor/Public Works the delivery sheets for election equipment <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>October 24, 2013</td>
<td>Toward the end of Early Voting, have the poll workers begin the list per precinct of all early voters <em>(optional)</em></td>
<td></td>
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<tr>
<td>Suggested Date</td>
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<tr>
<th>DATE</th>
<th>REQUIRED TASK</th>
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<tbody>
<tr>
<td>Before November 1, 2013</td>
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<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oct 28 – Nov 1, 2013</td>
<td>Begin assembling the precinct packets (election supplies)</td>
<td></td>
</tr>
<tr>
<td>October 28, 2013</td>
<td>Mail Sample Ballot for General Election to Candidates and Lt. Governor’s Office, also post a copy in the office <em>(at least 7 days before the election)</em></td>
<td></td>
</tr>
<tr>
<td>October 28, 2013</td>
<td><strong>DEADLINE</strong> for Campaign Financial Reporting Statement for Candidates in the General Municipal Election <em>(7 days before the election)</em></td>
<td></td>
</tr>
<tr>
<td>October 30, 2013</td>
<td>Post Campaign Finance Disclosure Documents online - Send link to Lt. Governor's office. <strong>UCA 10-3-208</strong></td>
<td></td>
</tr>
<tr>
<td>October 30, 2013</td>
<td>Pick up Official Registers from County if available <em>(not statutory date; to be delivered by noon on the day before the election)</em> <strong>UCA 20A-5-205</strong></td>
<td></td>
</tr>
<tr>
<td>October 31, 2013</td>
<td>Last day to request Absentee Ballot <em>(Thursday before election day)</em> <strong>UCA 20A-3-306</strong></td>
<td></td>
</tr>
<tr>
<td>November 1, 2013</td>
<td>Last day to vote early <strong>UCA 20A-3-601</strong></td>
<td></td>
</tr>
<tr>
<td>Suggested Publication Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>November 1, 2013</td>
<td>Publish notice about electronic voting equipment test <em>(must publish at least 48 hours before test)</em> <strong>UCA 20A-4-104</strong></td>
<td></td>
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<tr>
<td></td>
<td>Select Precanvass Team <em>(optional)</em></td>
<td></td>
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<tr>
<td>Suggested Date</td>
<td></td>
<td></td>
</tr>
<tr>
<td>November 1, 2013</td>
<td>Prepare for electronic voting equipment test</td>
<td></td>
</tr>
<tr>
<td>November 4, 2013</td>
<td>Deliver ballots and election supplies to Poll Managers/Workers <strong>UCA 20A-5-406</strong></td>
<td></td>
</tr>
<tr>
<td>November 4, 2013</td>
<td>Electronic voting equipment test</td>
<td></td>
</tr>
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</tr>
<tr>
<td>November 4, 2013</td>
<td>Deliver Voting Booths; deliver ballot boxes before noon on the day before election <strong>UCA 20A-5-407</strong></td>
<td></td>
</tr>
<tr>
<td>November 5, 2013</td>
<td>General Election Day</td>
<td></td>
</tr>
<tr>
<td>November 6, 2013</td>
<td>Election officers shall determine and make available to the public the number of absentee ballots received <strong>UCA 20A-3-309(4)(a)</strong></td>
<td></td>
</tr>
<tr>
<td>November 6, 2013</td>
<td>Pick up Voting Booths, Boards, Ballot Boxes, and Flag Signs from polling locations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conduct Precanvass with 5 Member Committee (optional)</td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Date November 7 – 12, 2013</strong></td>
<td>Recorder to Review Results of Precanvass, Identify Problem Areas, Get Answers to Questions, and Prepare Memorandum to Council of all difference noted and changes made</td>
<td></td>
</tr>
<tr>
<td>November 12, 2013</td>
<td>Post List of Provisional Ballots numbers to the webpage <strong>(requirement for county clerk, optional for municipality) UCA 20A-6-105.5</strong></td>
<td></td>
</tr>
<tr>
<td>November 19, 2013</td>
<td>City Council Canvasses Election Returns from General Election <strong>UCA 20A-4-304(1)</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>UCA 20A-16-408 says that a military-overseas ballot is valid if it is received up through 13 days after the election. With that in mind if there are outstanding military ballots a city really cannot canvass until 14 days after.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Suggested Date November 7 – 20, 2013</strong></td>
<td>Process Poll Worker Vouchers</td>
<td></td>
</tr>
<tr>
<td>November 7 – 20, 2013</td>
<td>A copy of the results of the election returns is to be filed with the Lieutenant Governor <strong>(within 14 days after the date of the election) UCA 20A-4-304(4)</strong></td>
<td></td>
</tr>
<tr>
<td>November 20, 2013</td>
<td>Mail Certificate of Election Form and Final Election Results to successful Candidates <strong>UCA 20A-4-304</strong></td>
<td></td>
</tr>
<tr>
<td>November 20, 2013</td>
<td>Publish Certification of Results of General Election <strong>UCA 20A-4-304 (2)(c)(iii)</strong></td>
<td></td>
</tr>
<tr>
<td>November 20 –</td>
<td>Transmit the checked official registers to the county clerk <strong>(within 10 days of</strong></td>
<td></td>
</tr>
<tr>
<td>DATE</td>
<td>REQUIRED TASK</td>
<td>COMPLETED</td>
</tr>
<tr>
<td>--------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>29, 2013</td>
<td><em>after the canvass) UCA 20A-4-305</em></td>
<td></td>
</tr>
<tr>
<td>Suggested Date</td>
<td>Suggested Date</td>
<td></td>
</tr>
<tr>
<td>November 25, 2013</td>
<td>Mail Final Notice--IF NEEDED--to any Candidates who have not turned in their Campaign Financial Reports</td>
<td></td>
</tr>
<tr>
<td>December 5, 2013</td>
<td>Deadline for Campaign Financial Reporting Statement for Candidates in the General Election <em>(30 days after the election unless municipality has adopted their own ordinance)</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Official election returns are to be kept sealed and in a safe place for 22 months</td>
<td></td>
</tr>
<tr>
<td></td>
<td><em>UCA 20A-4-202(2)</em></td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>Conduct City Council Elect Orientation</td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>Make Invitations and Programs for Oath of Office Ceremony</td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>Send Invitations to Councilmembers-Elect for Oath of Office Ceremony</td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>Notify Press of Oath of Office Ceremony</td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>Order Refreshments for Oath of Office Ceremony <em>(optional)</em></td>
<td></td>
</tr>
<tr>
<td>January 7, 2014</td>
<td>Oath of Office Ceremony</td>
<td></td>
</tr>
<tr>
<td>January 2014</td>
<td>Destroy 2011 Nonpermanent Election Documents</td>
<td></td>
</tr>
</tbody>
</table>
STATE OF UTAH

COUNTY OF __________________

I, _____, being first sworn, say that

(Please print name as you want it to appear on the ballot)

I reside at __________, ______ City, County of ______, State of Utah, Zip Code __________________, Phone No. __________________, Cell Phone No. __________________, e-mail address ___________________; that I am a registered voter, and that I am a candidate for the Office of __________________________ for the term of ________ years. I will meet the legal qualifications required of candidates for this office. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the application official ballots.

(Signed)

__________________________________

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

__________________________________

NOTARY PUBLIC

The qualifications to be a candidate are:

1. Be a United States citizen at time of filing;

2. Be a registered voter of the municipality;

3. Be a resident of the municipality or a resident of the recently annexed area for 12 consecutive months immediately preceding the date of the election;

4. Cannot be a convicted felon.
EXHIBIT C – ELECTION FILING PERIOD

ELECTION FILING PERIOD - The filing period for the ________________________City November election begins June 1. This year there is an opening for two four-year term Councilmember positions and Mayor position. You must state which position you wish to file for at the time of filing. The filing period begins June 1 and ends June 7 at 5:00 p.m. Each person seeking to become a candidate for office must file a Declaration of Candidacy in person with the City Recorder at ____. Office hours are 8:00 a.m. to 5:00 p.m. The application filing fee is _____________. No applications can be received after 5:00 p.m. on June 7, 20__.

Qualifications for a candidate are:

1. Be a United States citizen.

2. Be at least 18 years old.

3. Be a resident of the municipality for at least 365 consecutive days immediately preceding the date of the election.

4. Be a registered voter of the municipality.

5. Cannot be a convicted felon.

Any questions should be directed to __________________________

______________________________________________________________
EXHIBIT D – CAMPAIGN FINANCIAL REPORT

CAMPAIGN FINANCIAL REPORT

To: ________________, City Recorder

______________ City Corporation

________________________

____________________, Utah ___________

FOR

Full Name of Candidate __________________________________________________________

Street Address  _________________________________________________________________

______________, Utah _______________

Name of Office________________________________________

1. Total contributions greater than $500.00.........................................................$__________
   (Total from Section "A")

2. Aggregate total of contributions of $500.00 or less .................................$__________

3. Total campaign expenses.................................................................$__________
   (Total from Section "B")

4. Balance at the end of the reporting period.................................................. $__________

_I do solemnly swear that the information contained herein is true and accurate and reflects a complete record of my campaign contributions and expenditures for this reporting period._

Date ________________________    Signed  _________________________________________

(Candidate)
ITEMIZED CONTRIBUTIONS (Section "A")

<table>
<thead>
<tr>
<th>Date Received</th>
<th>Name of Contributor</th>
<th>Mailing Address</th>
<th>Amount of Contribution</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

(If additional space is needed, use blank paper and list information like the above format and attach to report.)
ITEMIZED EXPENDITURE REPORT (Section "B")

<table>
<thead>
<tr>
<th>Date of Expenditure</th>
<th>Person or Organization to Whom Expenditure Was Made</th>
<th>Mailing Address</th>
<th>Amount of Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

(If additional space is needed, use blank paper and list information like the above format and attach to report.)
EXHIBIT E – CAMPAIGN FINANCIAL REPORT INSTRUCTIONS

(DATES VARY BY YEAR)

CAMPAIGN FINANCIAL REPORT INSTRUCTIONS

Municipal Officer Candidates are to file Campaign Financial Reports with the City Recorder:

1. Candidate listed on the ballot for the Primary Election are to file a Campaign Financial Report no later than seven (7) days before the Primary Election – August 8, 2017 (Failure to file this Report will result in name being removed from ballot);
2. Eliminated Primary Election candidates are to file a Campaign Financial Report no later than thirty (30) days after the Primary Election – September 14, 2017;
3. Successful Primary Election candidates are to file a Campaign Financial Report no later than seven (7) days prior to the General Election – October 31, 2017; and

Campaign Financial Reports must be received by the City Recorder by 5:00 p.m. on the due date or be postmarked three days before the due date.

Any contributions exceeding Five Hundred Dollars ($500.00) must be listed separately on the reporting form. Contributions of Five Hundred Dollars ($500.00) or less may be listed as an aggregate total.

Any expenditures exceeding Five Hundred Dollars ($500.00) must be listed separately on the reporting form. Expenditures of Five Hundred Dollars ($500.00) or less may be listed as an aggregate total.

In-kind donations are to be reported as well. Volunteer hours are to be reported at a rate of Six Dollars ($6.00) per hour. Candidates need not pay the Volunteers, but the hours must be reported.

Failure to file Campaign Financial Reports as required by law will result in removal of the candidate from the ballot. Failure to file reports is an infraction under State Law. All candidates must file a Campaign Financial Report, even if contributions and expenditures are zero!

Once filed with the City Recorder Campaign Financial Reports are a public document. State Law requires that the reports be posted on the City website and/or the Lt. Governor’s website.

If you have any questions regarding Campaign Financial Reports, contact________________________, City Recorder, (___) ________________, ________________ (e-mail address).

Good Luck!
I, ________________________________, understand and agree that if I qualify for the general election and fail to file the required Campaign Financial Report on or before October 31, 20___, I will be disqualified from the election and my name will be removed from the ballot.

__________________________________  ____________________________
Signed                                     Date

____________________________________
Witness
EXHIBIT G – CERTIFIED LIST OF NOMINATIONS

CERTIFIED LIST OF NOMINATIONS

MAYOR

Insert name here

COUNCILMEMBER (2 Yr. Term) (one opening)

Insert name here

Insert name here

COUNCILMEMBER (4 Yr. Term) (two openings)

Insert name here

Insert name here

I certify the above names are listed correctly and authorize ballots to be printed.

______________________________

/s/ your name here, City Recorder

Your contact information here
EXHIBIT H – POLL WORKERS

POLL WORKERS – 2009 MUNICIPAL ELECTION

**EARLY VOTING** – General Election

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson, Lisa</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brown, Norma</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chidester, Carol</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crawley, Barbara</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goette, Grace Marie</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goette, John</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stevens, Jeannene</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wilson, Suzi</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### GENERAL ELECTION – November 3

#### LI-01 – City Center

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lisa Halverson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brad Halverson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lori Atchison</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### LI-02 – Lindon Elementary

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carol Chidester</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norma Brown</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Myrl Jarvis</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### LI-03 – Lindon Elementary

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sally Gross</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lynn Chase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Renee’ Condie</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### LI-04 – Oak Canyon Junior High

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jocelyn Rogers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barbara Crawley</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jeannee Stevens</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### LI-05 – City Center

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carla Risinger</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suzi Wilson</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### LI-06 – Oak Canyon Junior High

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Goette</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grace Marie Goette</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Linda Mayo</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT I – OATH OF OFFICE CEREMONY

November ___, 20___

Name
Address
City, State, Zip
______________, UT ______

Dear ,

Re: Oath of Office Ceremony

Congratulations on your successful election! According to state statute, newly elected officers begin their term of office at 12 o'clock noon on the first Monday in January. I have asked Judge Christensen to perform the Oath of Office on Monday, January 7, 2007 at 12:00 noon. This will be held in the Council Chambers. You are welcome to invite your family to this special ceremony. Light refreshments will be served.

________________________

City Recorder
EXHIBIT J – COUNCIL VACANCY

____________________ City

Council Vacancy

Due to the recent resignation of Councilmember ____________________, the __________ City Council is seeking applicants for appointment to the Council. The appointment will last until December 31, 2007. Whoever is appointed to fill the vacancy could then run to fill the unexpired two-year term of Mr. _____ or run for a four-year term of his or her own.

All interested citizens of ______________ City are invited to send an application letter to the City which:

1) indicates why the applicant would like to hold this position;

2) lists the applicant’s qualifications for the position;

3) verifies that the citizen is a registered voter in ______________ City, is a U.S. citizen, and has been a resident of ____________________ City for 12 consecutive months; and

4) the full name, address and telephone number of the applicant.

Letters must be received at City Hall, ______________________, no later than 5:00 p.m. April 4, 20___. All letters should be addressed to:

______ City Recorder

______ (address)

______ City, UT Zip

Members of the City Council will review all applications and set up interviews from among the applicants. Interviews will be conducted on April 19, 2007 beginning at 4:00 p.m.

Any questions should be directed to __ at ____.
SAMPLE PURCHASING POLICY

ARTICLE 1
GENERAL PROVISIONS

The underlying purposes of this policy are:

1. To ensure fair and equitable treatment of all persons who wish to, or do conduct business with the [Local Government].

2. To provide for the greatest possible economy in [Local Government] procurement activities.

3. To foster effective broad-based competition within the free enterprise system to ensure that the [Local Government] will receive the best possible service or product at the lowest possible price.

Compliance – Exemptions from this policy

1. This policy shall not prevent the [Local Government] from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

2. When a procurement involves the expenditure of federal assistance funds, the [Local Government] shall comply with applicable federal law and regulations.

Definitions

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

2. "Change order" means a written order signed by the purchasing agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the purchasing agent to order without consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

3. "Contract" means any [Local Government] agreement for the procurement or disposal of supplies, services, or construction.

4. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

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

6. "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

7. "Purchasing agent" means the person duly authorized by the governing body of the [Local Government] to enter into and administer contracts and make written determinations with respect thereto.
8. "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

9. "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

ARTICLE 2
OFFICE OF THE PURCHASING AGENT

The governing body of the [Local Government] shall appoint a Purchasing Agent. The Purchasing Agent shall be responsible to make procurements, solicit bids and proposals, enter into and administer contracts, and make written determinations for the [Local Government].

ARTICLE 3
SOURCE SELECTION AND CONTRACT FORMATION - GENERAL PROVISIONS

Purchases not requiring sealed bids

1. Purchases costing less than $__________ in total, shall not require bids of any type. (Purchases shall not be artificially divided so as to constitute a small purchase under this section.)

2. Purchases costing more than $__________ but less than $__________ in total, shall require (2 to 3) telephone bids.

3. Purchases made through the cooperative purchasing contracts administered by the State Divisions of Purchasing.

4. Purchases made from a single-source provider.

5. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained; and, such purchases should be limited to amounts necessary to the resolution of the emergency.

Purchases requiring sealed bids

1. Contracts shall be awarded by competitive sealed bidding except as otherwise provided by this policy.

2. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement. Public notice of the invitation for bids shall be given at least days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation.

3. Any procurement in excess of $__________ shall require a legal notice in a local newspaper of general circulation.

4. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
5. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.

6. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the [Local Government] or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the purchasing agent.

7. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

Cancellation and rejection of bids

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the [Local Government]. The reasons shall be made part of the contract file.

Use of competitive sealed proposals in lieu of bids

When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the [Local Government], a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contracts.

1. Proposals shall be solicited through a request of proposals. Public notice of the request for proposals shall be given at least days prior to the advertised date of the opening of the proposals.

2. Proposals shall be opened so as to avoid disclosure of contents to competing offers' during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.

3. The request for proposals shall state the relative importance of price and other evaluating factors.

4. Offerers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

5. Award shall be made to the person whose proposal is determined, in writing, to be the most advantageous to the [Local Government], taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.
Architect-Engineer services are qualification-based procurement. Requests for such services should be publicly announced. Contracts should be negotiated by the [Local Government] based on demonstrated competence at fair and reasonable prices. See UCA 63-56-701 through 705.

**Determination of non-responsibility of bidder**

Determination of non-responsibility of a bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder or offeror.

**Cost-plus-a-percentage-of-cost contracts prohibited**

Subject to the limitations of this section, any type of contract which will promote the best interests of the [Local Government] may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the [Local Government] than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

**Required contract clauses**

1. The unilateral right of the [Local Government] to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.

2. Variations occurring between estimated quantities of work in a contract and actual quantities.

3. Suspension of work ordered by the [Local Government].

**ARTICLE 4**

**SPECIFICATIONS**

All specifications shall seek to promote overall economy and best use for the purpose intended and encourage competition in satisfying the [Local Government's] needs, and shall not be unduly restrictive. Where practical and reasonable, and within the scope of this article, Utah products shall be given preference.

**ARTICLE 5**

**APPEALS**

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the purchasing agent. An appeal shall be submitted in writing within 5 working days after the aggrieved person knows or should have known of the facts.

The purchasing agent shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing body.

The [Local Government's] governing body shall be the final appeal on the [Local Government] level.

All further appeals shall be handled as provided in section 63-56-811 through 820 of the Utah Code.
ARTICLE 6
ETHICS IN PUBLIC CONTRACTING

No person involved in making procurement decisions may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.

Any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person’s own use or the use or benefit of any other person or organization from any person or organization interested in selling to the [Local Government].

Updated May 2018
LINKS

Utah Code Annotated
Utah League of Cities and Towns
Lt. Governor
Lt. Governor – Elections
Lt. Governor – Notary
Utah State Treasurer