

TITLE 3 ¹

ADMINISTRATION

CHAPTER 3-01.	APPOINTED OFFICES
CHAPTER 3-02.	DEPARTMENTS AND DIVISIONS
CHAPTER 3-03.	BOARDS AND COMMITTEES
CHAPTER 3-04.	PERSONNEL
CHAPTER 3-05.	GOVERNMENT RECORDS
CHAPTER 3-06.	PROCUREMENT AND SURPLUS PROPERTY
CHAPTER 3-07.	CONSTITUTIONAL TAKINGS REVIEW
CHAPTER 3-08.	DEVELOPMENT FEE APPEALS

CHAPTER 3-01. APPOINTED OFFICES

3-01-010.	Appointed Offices.
3-01-020.	Appointment and Removal.
3-01-030.	Oath of Office.
3-01-040.	Bond.
3-01-050.	Salaries.
3-01-055.	Utah Retirement System.
3-01-060.	Transfer of Records.
3-01-070.	Conflicts of Interest.
3-01-080.	City Manager.
3-01-090.	City Recorder.
3-01-100.	City Treasurer.
3-01-110.	City Attorney.
3-01-120.	City Engineer.
3-01-130.	City Chief of Police.
3-01-140.	City Justice Court Judge.

3-01-010. Appointed Offices.

The City Council may create any appointed office deemed necessary for the government of the City and shall prescribe the powers and duties to be performed by appointed officials, including, but not limited to, the City Manager, City Recorder, City Treasurer, City Attorney, City Engineer, City Police Chief, and City Justice Court Judge.

3-01-020. Appointment and Removal.

Appointed officers shall be appointed in accordance with the provisions of this Title and applicable provisions of Utah law. Except as otherwise provided herein regarding the appointment of the City Manager, the Mayor, with the advice and consent of the City Council, shall appoint and fill vacancies in all appointed offices provided for by law or ordinance. Except as otherwise provided herein regarding the dismissal of the City Manager and unless otherwise provided by law, appointed officers shall serve at the pleasure of the City Council and may be removed with or without cause by a majority vote of the City Council. Unless sooner removed as provided herein, all appointed officers shall continue in office until their successors are appointed and qualified. The City Manager may provide written recommendation to the Mayor and City Council regarding the appointment or dismissal of any appointed officer.

¹ Amended & Recodified-Ord. No. 2015-27, November 4, 2015

3-01-030. Oath of Office.

(a) Required. Before entering on the duties of their respective offices, all appointed officers of the City shall take, subscribe and file the constitutional oath of office as set forth in Article IV, Section 10 of the Utah Constitution.

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

(c) Filed. All oaths of office shall be filed with the City Recorder, except that of the City Recorder, which shall be filed with the City Treasurer, pursuant to *Utah Code Ann.* § 52-1-4, as amended.

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

3-01-040. Bond.

(a) Required. The Treasurer shall be required to furnish a bond in accordance with the provisions set forth herein. All other appointed officers of the City may, by resolution or ordinance, be required to furnish a personal bond with good and sufficient sureties or corporate surety bond payable to the City in such sum as the resolution or ordinance may establish, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law, or such officers may be included within public employee blanket bonds at such amounts as may be determined by the City Council.

(b) Treasurer's Bond. The City Treasurer's bond shall be in the amount established by the State Money Management Council pursuant to *Utah Code Ann.* § 51-7-15, as amended.

(c) Filed. All required bonds shall be filed with the City Recorder, except the City Recorder's bond which shall be filed with the City Treasurer.

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

(e) Additional Bonds. The City Council may at any time require further and additional bonds of any or all appointed officers of the City by resolution or ordinance.

3-01-050. Salaries.

Appointed officers shall receive such compensation for their services as the City Council may fix or amend by ordinance in accordance with notice and hearing requirements set forth in *Utah Code Ann.* § 10-3-818, as amended. The compensation of municipal officers shall be paid at least monthly.

3-01-055. Utah Retirement System.

For purposes of determining eligibility under the Utah Retirement System and provisions of the Utah State Retirement and Insurance Benefit Act, as set forth in Title 49 of the *Utah Code*, the City hereby certifies that any appointive officer position requiring less than forty (40) hours of work per week shall be considered a part-time appointive officer position. Unless otherwise provided by law, any appointive officer appointed for the first time to a part-time appointive officer position on or after July 1, 2011, shall not be eligible for participation in the Utah Retirement System. Persons providing services under contract with the City are not eligible for retirement benefits.

3-01-060. Transfer of Records.

Every officer of the City, upon expiration of his or her term of office or employment with the City, shall deliver to the City all books, property, equipment, keys, and records which are the property of the City immediately after notification and request to do so.

3-01-070. Conflicts of Interest.

All appointed officers of the City shall conduct themselves in an appropriate manner, including adherence to the conflict of interest provisions of the Utah Officers' and Employees' Ethics Act, set forth at *Utah Code Ann.* § 10-3-1301, *et seq.*, as amended.

3-01-080. City Manager.

(a) Appointment. The office of City Manager has been created and established and shall continue in force and effect as an appointed office of the City. The City Council shall appoint a qualified person to act as City Manager. Pursuant to *Utah Code Ann.* § 10-3b-302, as amended, the Mayor shall have the right to vote in the appointment of the City Manager.

(b) Term of Office and Severance Pay. The City Manager shall serve at the pleasure of the City Council and may be terminated at any time with or without cause. Pursuant to *Utah Code Ann.* § 10-3b-302, as amended, the Mayor shall have the right to vote in the dismissal of the City Manager. After the City Manager has been employed by the City for at least one (1) year, if the City Manager is removed thereafter without cause, the City shall pay to the City Manager six (6) months' severance pay. The City Manager position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the City Manager may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

(c) Office. The City Manager shall maintain an office in City Hall and shall spend such time in the performance of his or her duties as is necessary or as may be required from time to time by the City Council, but not less than forty (40) hours per week. The City Manager need not be a resident or qualified elector of the City, but should maintain his or her residence within a reasonable driving distance of the City.

(d) Resignation. Before voluntarily resigning from the position of City Manager, the City Manager shall give the City Council at least thirty (30) days' notice in writing of his or her intent to resign.

(e) Other Employment. The City Manager shall not accept any outside employment in addition to employment by the City without prior annual written approval of the City Council.

(f) Powers of Mayor Not Delegated. The legislative and judicial powers and ceremonial functions of the Mayor, his or her position as chairman of the City Council, and any ex officio position he or she may hold, shall not be delegated to the City Manager. Any changes to the powers and duties of the Mayor, as delegated to the City Manager, shall comply with applicable provisions of *Utah Code Ann.* § 10-3b-303, as amended.

(g) Duties. The City Manager shall at all times be under the control and supervision of the City Council, and shall administer the day-to-day operations of the City and its services according to the policies and programs established by the City Council. The following duties and the authority to perform them are hereby delegated to the City Manager.

(1) Appoint and Remove Employees. Unless otherwise delegated to the Mayor for appointed offices and department heads, the City Manager shall have the authority to hire, employ and remove employees as provided herein. The City Manager shall also be responsible for reviewing the status and performance of any personnel being considered for discharge, transfer, or demotion from appointment or employment with the City. The City Manager may provide written recommendation to the Mayor and City Council regarding the appointment or dismissal of any appointed officer as provided in Section 3-01-020.

(2) Supervise Officers and Department Heads. The City Manager shall provide direct supervision of and have direct responsibility over the offices of City Recorder, City Treasurer, Chief of Police, City Engineer, City Attorney, and Department Heads.

(3) Personnel Director. The City Manager shall be the personnel director, and as such shall be responsible for implementing and enforcing the Personnel Policies and Procedures of the City and providing recommendations to the City Council regarding the compensation plan for employees.

(4) Inventory Property. The City Manager shall keep or cause to be kept a current inventory showing all real and personal property of the City and its location. The City Manager shall be responsible for the care and custody of all such property, including equipment, buildings, parks and all other City property which is not by law assigned to some other officer or body for care and control.

(5) Purchasing and Claims. The City Manager shall act as purchasing agent for the City, and as such shall implement and enforce all provisions of the ordinances of the City relating to purchasing.

(6) Council Meetings. The City Manager shall attend all meetings of the City Council and may recommend to the City Council adoption of such measures as the City Manager may deem necessary or expedient.

(7) Budget Officer. The City Manager shall act as the budget officer for the City and shall perform or cause to be performed all of the duties of such office as set forth in the Utah Uniform Municipal Fiscal Procedures Act. The City Manager shall also ensure that all executive procedures and activities of the City are in compliance with such Act.

(8) Review Contracts. The City Manager shall review and make recommendations to the City Council concerning all proposed contracts to which the City may be a party, and shall see that the terms of any contract to which the City is a party are fully performed by all parties thereto.

(9) Propose Plans and Programs. The City Manager shall propose plans and programs concerning the development, operation and needs of the City and submit such plans to the City Council to be approved and developed as policy.

(10) Implement Policy. The City Manager shall implement all policy changes and directives of the Mayor and the City Council through regularly scheduled staff meetings.

(11) Management Controls. The City Manager shall set performance standards and exercise managerial control to ensure that the City government is functioning in the most efficient and effective manner.

(12) Organization. The City Manager shall recommend creation and organization of all necessary departments, divisions, bureaus and offices necessary for the government of the City to the City Council for its approval prior to implementation.

(13) Records. The City Manager shall oversee the access and retention of the books, records, and official papers of the City's departments and offices.

(14) Additional Duties. The City Manager shall have such other powers and shall perform such other duties and obligations as may be required of him or her by State law or by ordinance, resolution, or policy of the City Council.

3-01-090. City Recorder.

(a) Appointment. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder. The City Recorder position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the City Recorder may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

(b) Office. The office of the City Recorder shall be located at City Hall or at some other place convenient thereto as the City Council may direct.

(c) Corporate Seal. The City Recorder shall keep the Corporate Seal. When certified by the City Recorder under the Corporate Seal, copies of all papers filed in the City Recorder's office and transcripts from all records of the City Council shall be admissible in all courts as originals.

(d) Meetings of City Council. The City Recorder, or his or her designee, shall attend the meetings and keep the record of the proceedings of the City Council.

(e) Actions of City Council. The City Recorder shall record all ordinances, resolutions, and regulations passed by the City Council.

(f) Contracts. The City Recorder shall countersign all contracts made on behalf of the City or to which the City is a party and shall maintain a properly indexed record of all such contracts.

(g) Elections and Appointments. The City Recorder shall manage all municipal election procedures and requirements as provided in Title 20A of the *Utah Code Annotated*, as amended, and shall keep a record of all persons elected or appointed to any office within the City, including the date of appointment or election, term of office, date of death, resignation, or removal, and name of person appointed to fill any vacancy. Election duties may be performed by Davis County pursuant to agreement between the City and County.

(h) Records of the City. The City Recorder shall keep all of the books, records, accounts and documents of the City at the Recorder's Office. Such records shall be open for public inspection pursuant to the provisions of the Utah Government Records Access and Management Act.

(i) Fiscal Procedures. The City Recorder's duties under the Uniform Fiscal Procedures Act for Utah Cities have been delegated to the Finance Director in accordance with *Utah Code Ann.* § 10-6-157, as amended.

(j) Limitations. The City Recorder shall not serve as the City Treasurer.

(k) Additional Duties. The City Recorder shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3-01-100. City Treasurer.

(a) Appointment. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer. The City Treasurer position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the City Treasurer may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

(b) Custodian. The City Treasurer shall be the custodian of all money, bonds, or other securities of the City.

(c) Collections. The City Treasurer shall collect and receive all monies payable to the City, including taxes, assessments, licenses, fines, forfeitures, service charges, fees and other revenues of the City. The City Treasurer shall keep an accurate account of all monies received hereunder and shall promptly deposit all such monies in the appropriate bank accounts of the City.

(d) Receipts. The City Treasurer shall give or cause to be given to every person paying money to the City Treasury, a receipt or other evidence of payment therefor, specifying the date of payment and the account paid. The City Treasurer shall file the duplicate of such receipt, a summary report, or other evidence of payment in the office of the City Recorder.

(e) Checks. The City Treasurer, or other person designated by the City Council, shall sign all checks prepared by the City and shall, prior to affixing said signature, determine or cause to be determined that sufficient funds are on deposit in the appropriate bank account of the City to honor such check.

(f) Warrants. In the absence of appropriate monies, the City Treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the City. The City Treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment, pursuant to *Utah Code Ann.* § 10-6-144, as amended.

(g) Special Assessments. All monies received by the City Treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made.

(h) Accounting. The City Treasurer shall keep an accurate and detailed accounting of transactions, receipts, collections, disbursements and other matters within the Treasurer's charge as provided by State law or as the City may by ordinance or resolution direct.

(i) Limitations. The City Treasurer shall not serve as the City Recorder.

(j) Additional Duties. The City Treasurer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3-01-110. City Attorney.

(a) Appointment. The City may appoint an attorney licensed to practice law in the State of Utah to the office of City Attorney to provide such legal assistance to the City as may be necessary. The City Attorney shall be appointed by the Mayor with the advice and consent of the City Council. The City Attorney shall act as legal advisor to the City in all matters pertaining to contracts with or by the City or questions of legality arising out of any law, ordinance or otherwise, and shall advise all City officers in relation to their official duties.

(b) At-Will Position. The position of City Attorney is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, any person hired or appointed to act as City Attorney may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

(c) Criminal Prosecutors. The City may contract with, retain or appoint an attorney or attorneys licensed to practice law in the State of Utah for the performance of criminal prosecutorial legal services.

3-01-120. City Engineer.

(a) Appointment. The City may contract with, retain, or appoint an engineer licensed to practice engineering in the State of Utah to the office of City Engineer. The City Engineer shall be appointed by the Mayor with the advice and consent of the City Council. Any person appointed or retained as City Engineer shall be a registered professional engineer under Title 58, Chapter 22 of the *Utah Code*, as amended.

(b) Records. The City and/or the City Engineer shall maintain all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the City and the holder of such records shall ensure public accessibility to the same as required by law.

(c) Recording. The City Engineer shall record and file all drawings and documents pertaining to public lands and improvements of the City, and shall maintain such records and files in good condition allowing no alteration, mutilation or changes to be made. The recording or filing of any drawing or

instrument with the City shall not conflict in any way with the recording or filing of the same in other offices of record.

(d) Fees. The City Engineer shall not record any drawings or instruments, file any papers or notices, furnish any copies, or render any service connected with his or her official duties, until the required fees for the same are paid or tendered as required by law or City ordinance.

(e) Seal. The City Engineer shall have a seal for his or her use, which seal shall be affixed to every certification approval.

(f) Additional Duties. The City Engineer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3-01-130. City Chief of Police.

(a) Appointment. The Mayor shall, with the advice and consent of the City Council, appoint a qualified person to the office of City Chief of Police. The Police Chief position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the Police Chief may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

(b) Supervised by City Manager. The Chief of Police shall be under the direction, control and supervision of the City Manager, as delegated from the appointing body, and shall exercise and perform such duties as may be prescribed by the City Council.

(c) Duties. The Chief of Police shall have the same authority and responsibilities as sheriffs and constables of Davis County, Utah, as provided by law, and shall, in addition to other Statewide authority as otherwise provided by law:

- (1) Suppress riots, disturbances, and breaches of the peace;
- (2) Apprehend all persons violating State laws or City ordinances;
- (3) Diligently discharge his or her duties and enforce all ordinances of the City to preserve the peace, good order, and protection of the rights and property of all persons;
- (4) Attend the municipal Justice Court of the City when required, provide security for such Court, and obey its orders and directions; and
- (5) Exercise and perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

3-01-140. City Justice Court Judge.

The office of City Justice Court Judge is hereby created, who shall act as the Justice Court Judge of the Centerville City Justice Court. The Justice Court Judge shall be appointed and shall have such powers and duties as set forth in Title 4 of this Code and as otherwise assigned to him or her by the City Council.

CHAPTER 3-02. DEPARTMENTS AND DIVISIONS

- 3-02-010. Departments.**
- 3-02-020. Department Heads.**
- 3-02-030. Public Works Department.**
- 3-02-040. Public Works Director.**
- 3-02-050. Community Development Department.**
- 3-02-060. Community Development Director.**
- 3-02-070. Parks and Recreation Department.**
- 3-02-080. Parks and Recreation Director.**
- 3-02-090. Finance Department.**
- 3-02-100. Finance Director/Assistant City Manager.**
- 3-02-110. Police Department.**
- 3-02-120. Chief of Police.**

3-02-010. Departments.

The City Council may create any department or division deemed necessary or appropriate for the administration of the City and shall prescribe by resolution or ordinance the organization, powers and duties of such departments or divisions.

3-02-020. Department Heads.

The Mayor, with the advice and consent of the City Council, shall appoint a qualified person to direct and administer each department, to be known and referred to as "Department Heads." The powers and duties of Department Heads shall be prescribed by ordinances, resolutions, regulations and job descriptions. Unless otherwise provided by law, Department Heads shall serve at the pleasure of the City Council and may be removed with or without cause by a majority vote of the City Council. All Department Head positions described in this Chapter shall be deemed to constitute a "head of a municipal department" as such term is used in *Utah Code Ann.* § 10-3-1105, as amended. All Department Head positions are at-will positions and are exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, Department Heads may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

3-02-030. Public Works Department.

There is a Public Works Department within Centerville City which is responsible for maintaining public properties and public improvements of the City including, but not limited to, streets, drainage facilities, and water systems of the City. There is established within the Public Works Department a Water Division, Street Division and Drainage Division.

3-02-040. Public Works Director.

The Public Works Director is the Department Head of the Public Works Department. The Public Works Director performs such powers and duties as assigned to him or her by the City Council. The Public Works Director position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the Public Works Director may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

3-02-050. Community Development Department.

There is a Community Development Department within Centerville City which is responsible for the administration of planning and zoning policies of the City and which oversees and regulates all building, construction and development activities within the City.

3-02-060. Community Development Director.

The Community Development Director is the Department Head of the Community Development Department. The Community Development Director performs such powers and duties as set forth in Title 12 of the City Zoning Ordinances and as otherwise assigned to him or her by the City Council. The Community Development Director position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the Community Development Director may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

3-02-070. Parks and Recreation Department.

There is a Parks and Recreation Department within Centerville City which is responsible for maintaining and managing public properties of the City, including, but not limited to, City parks and trails as well as the City Cemetery. The Parks and Recreation Department shall also manage and operate the City recreation programs.

3-02-080. Parks and Recreation Director.

The Parks and Recreation Director is the Department Head of the Parks and Recreation Department. The Parks and Recreation Director performs such powers and duties as set forth in City Ordinances and as otherwise assigned to him or her by the City Council. The Parks and Recreation Director position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the Parks & Recreation Director may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

3-02-090. Finance Department.

There is a Finance Department within Centerville City which is responsible for maintaining and managing all accounts and investments, preparing financial reports and budgets, monitoring expenditures and advising the City Council on financial matters.

3-02-100. Finance Director/Assistant City Manager.

The Finance Director/Assistant City Manager is the Department Head of the Finance Department. The Finance Director/Assistant City Manager performs all the financial duties and responsibilities of the City Recorder as set forth in the Uniform Fiscal Procedures Act, pursuant to the provisions of *Utah Code Ann.* § 10-6-157, as amended, and performs such powers and duties as set forth in City Ordinances and as otherwise assigned to him or her by the City Council. Pursuant to *Utah Code Ann.* § 10-6-157, as amended, the Finance Director shall be appointed and removed by the Mayor, with the advice and consent of the City Council. The Finance Director may not assume the statutory duties of the City Treasurer. The Finance Director position is an at-will position and is exempt from the protections of *Utah Code Ann.* § 10-3-1105, as amended. As such, the Finance Director may be terminated with or without cause and shall not be entitled to due process appeal procedures as set forth in *Utah Code Ann.* § 10-3-1106, as amended.

3-02-110. Police Department.

There is a Police Department within Centerville City which shall be responsible for enforcing the traffic and criminal ordinances of the City and protecting the lives and property within the City.

3-02-120. Chief of Police.

The Chief of Police is the Department Head of the Police Department. The Chief of Police shall be appointed and perform such powers and duties as set forth in Section 3-01-130.

CHAPTER 3-03. BOARDS AND COMMITTEES

- 3-03-010. Boards and Committees.**
- 3-03-020. Governmental Immunity.**
- 3-03-030. Parks and Recreation Committee.**
- 3-03-040. Trails Committee.**
- 3-03-050. Landmarks Commission.**
- 3-03-060. Whitaker Museum Board.**

3-03-010. Boards and Committees.

The City Council may create any boards, committees or commissions deemed necessary or appropriate for the administration of the City and shall prescribe by resolution or ordinance the organization, powers and duties of such bodies.

3-03-020. Governmental Immunity.

Members of any City board, committee or commission shall be deemed included in the definition of "employee" for purposes of the Utah Governmental Immunity Act as set forth in *Utah Code Ann.* § 63G-7-101, *et seq.*, as amended.

3-03-030. Parks and Recreation Committee.

(a) Creation. There is a Parks and Recreation Committee for Centerville City which acts as an advisory committee to the City Council regarding City parks and recreation programs. The organization, powers and duties of the Parks and Recreation Committee is as follows.

(b) Members.

(1) Number. The Parks and Recreation Committee shall be comprised of not more than seven (7) but no less than five (5) regular members who shall be appointed by the Mayor with the advice and consent of the Council. Parks and Recreation Committee members shall be residents of Centerville City.

(2) Term. Parks and Recreation Committee members shall be appointed to staggered terms of three (3) years, provided that members may be appointed to terms shorter than three (3) years when necessary to provide staggered terms. These terms are renewable. Parks and Recreation Committee members may be removed from office at any time with or without cause by action of the City Council.

(3) Compensation. Parks and Recreation Committee members shall receive no compensation for their services but may be reimbursed for reasonable expenses incurred in the performance of their duties.

(c) Organization and Procedure.

(1) Chairperson. The members of the Parks and Recreation Committee shall appoint one member as chairperson. The chairperson shall serve for a term of one (1) year, which term may be renewed. The chairperson shall oversee the proceedings and activities of the Parks and Recreation Committee.

(2) Rules. The Parks and Recreation Committee may adopt reasonable rules and regulations in accordance with this Section for governing the conduct of its business.

(3) Meetings. The Parks and Recreation Committee may hold meetings at such times as the Committee determines is necessary and as properly called with notice given to each Committee member.

(d) Duties. The Parks and Recreation Committee acts in an advisory and volunteer capacity to the City Council regarding parks and recreation opportunities within the City. The Parks and Recreation Committee shall:

(1) Periodically review the Parks and Recreation Master Plan and make appropriate recommendations to the Planning Commission and City Council;

(2) Recommend projects, legislation, policies, funding allocations, and other measures, programs, or activities for the development of parks and recreation opportunities;

(3) Review plans for park improvements and gather public input when appropriate;

(4) Periodically review recreation programs and solicit public comment when appropriate;

(5) Carry out projects, programs or activities as directed by the Mayor or City Council; and

(6) Initiate, sponsor, and promote involvement, activities and contributions by the private sector and seek grants for development of parks in the City.

3-03-040. Trails Committee.

(a) Creation. There is a Trails Committee for Centerville City which acts as an advisory committee to the City Council regarding the establishment of public trails and related facilities, programs and policies to meet the recreational needs of the citizens of Centerville City.

(b) Members.

(1) Number. The Trails Committee shall be comprised of not more than seven (7) but no less than five (5) regular members who shall be appointed by the Mayor with the advice and consent of the Council. Trails Committee members shall be residents of Centerville.

(2) Term. Trails Committee members shall be appointed to staggered terms of three (3) years, provided that members may be appointed to terms shorter than three (3) years when necessary to provide staggered terms. These terms are renewable. Trails Committee members may be removed from office at any time with or without cause by action of the City Council.

(3) Compensation. Trails Committee members shall receive no compensation for their services but may be reimbursed for reasonable expenses incurred in the performance of their duties.

(c) Organization and Procedure.

(1) Chairperson. The members of the Trails Committee shall appoint one member as chairperson. The chairperson shall serve for a term of one year, which term may be renewed. The chairperson shall oversee the proceedings and activities of the Trails Committee.

(2) Rules. The Trails Committee may adopt reasonable rules and regulations in accordance with this Section for governing the conduct of its business.

(3) Meetings. The Trails Committee may hold meetings at such times as the Committee determines is necessary and as properly called with notice given to each Committee member.

(d) Duties. The Trails Committee acts in an advisory and voluntary capacity to the City Council regarding the development of trails and related facilities within the City. The Trails Committee shall:

(1) Recommend to the City Council and the Planning Commission a Trails Master Plan;

(2) Review and recommend appropriate changes and updates to the Trails Master Plan to the City Council and Planning Commission;

(3) Recommend projects, legislation, policies, funding allocations, and other measures, programs, or activities for the development of trails, parkways and related recreation opportunities for the benefit of City residents;

(4) Carry out projects, programs, or activities as directed by the City Council;

(5) Initiate, sponsor and promote involvement, activities and contributions by the private sector for the development of trails and parkways for City residents; and

(6) Provide input in the planning and approval process for City developments shown on the Trails Master Plan to include a present or future trail.

3-03-050. Landmarks Commission.

There is a Landmarks Commission for Centerville City which acts as an advisory commission to the City Council regarding historic sites and landmarks within the City. The organization, powers and duties of the Landmarks Commission are more particularly set forth in Section 12-20-070 of the Centerville City Municipal Code.

3-03-060. Whitaker Museum Board.

(a) Creation. There is a Whitaker Museum Board for Centerville City which acts as an advisory board to the City Council regarding the facilities, programs, and policies for the administration and operation of the "The Whitaker" Centerville's Heritage Museum (hereafter referred to as "The Whitaker" or "Museum").

(b) Purpose and intent. The purpose of "The Whitaker" is to support the Centerville City mission which states: "Our mission is to serve the people of Centerville by promoting their peace, health, safety and welfare while planning for the future and preserving the past." In addition to the City's mission statement, the mission of "The Whitaker" is as follows: "The Whitaker" Centerville's Heritage Museum tells Centerville's story, teaches traditional values, creates links between past and present and cultivates pride in our rich heritage. The Museum Board shall pursue policies and programs in the administration and operation of Museum consistent with these mission statements.

(c) Members.

(1) Number and Appointment. The Whitaker Museum Board shall be comprised of not more than seven (7) but no less than five (5) regular members who shall be appointed by the Mayor with the advice and consent of the Council. The Mayor may receive names for consideration for appointment to the Board from the Museum Board.

(2) Term. Museum Board members shall be appointed to staggered terms of three (3) years, provided that members may be appointed for terms shorter than three (3) years when necessary to provide for staggered terms.

(3) Qualifications. Each Museum Board member should possess interest or knowledge in the operation and function of the Museum.

(4) Liaison. The City Council may appoint one of its members to serve as a liaison to the Museum Board. The liaison should attend the meetings of the Museum Board and serve only to advise and act as a liaison to the City Council regarding the Museum Board with no power to vote on the Museum Board.

(5) Removal. Museum Board members shall serve at the pleasure of the City Council and may be removed at any time with or without cause by majority vote of the City Council.

(6) Vacancies. Vacancies on the Museum Board occurring for any reason shall be filled by the Mayor, with the advice and consent of the City Council, in accordance with the procedures for appointment set forth in Subsection (b)(1), for the unexpired term of such Board member.

(7) Compensation. Museum Board members shall serve without compensation and shall be deemed "volunteers" for purposes of City ordinances, rules, regulations and policies.

(8) Conflicts of Interest. As appointed volunteers of the City, Museum Board members shall comply with the Utah Officers' and Employees' Ethics Act as set forth in Utah Code Ann. §§ 10-3-1301, et seq., as amended.

(d) Organization and Procedure.

(1) Chair and Vice-Chair. The Museum Board shall elect one of its members as Chair to oversee the proceedings and activities of the Board. The Museum Board shall also elect one of its members to act as Vice-Chair to perform duties as assigned from the Chair and to oversee the proceedings and activities of the Museum Board in the absence or inability of the Chair to act. The Chair and Vice-Chair shall serve for one (1) year terms. Election of the Chair and Vice-Chair should take place during the first meeting of the Museum Board each year. The Chair and Vice-Chair shall be voting members of the Museum Board.

(2) Meetings. The Museum Board may hold meetings at such times as the Board determines is necessary. Generally, Museum Board meetings should be held once a month. Meetings of the Museum Board may be called by the Chair, a majority of the members of the Board, the Mayor, or the City Manager. Meetings shall be conducted in accordance with properly approved policies and guidelines of the Museum Board.

(3) Open Meetings. Meetings of the Museum Board shall be conducted in accordance with the Open Public Meetings Act, as set forth in *Utah Code Ann. §§ 52-4-101, et seq.*, as amended, including public notification of meeting place, time, and agenda items. The Museum Board shall keep a public record of its proceedings, and all minutes and recordings of the meeting and decisions of the Board shall be filed in the office of the City Recorder.

(4) Quorum. No official business of the Museum Board shall be conducted except in the presence of a properly constituted quorum. The quorum shall consist of a majority of the appointed members of the Museum Board, provided the minimum number of members required for a quorum shall be three (3). All official business must be decided upon by majority vote of the quorum, provided that the minimum number of votes required to take any action shall be three (3).

(5) Policies and Guidelines. The Museum Board may adopt reasonable policies for governing the conduct of its business. All such policies shall be consistent with City ordinances, policies and regulations, and shall be submitted to the City Council for review and approval prior to implementation. Policies of the Museum Board requiring City Council approval include substantive or long-term policy matters such as accession and deaccession of property,

procurement, Board duties, etc. The Museum Board may also adopt reasonable internal guidelines which do not require City Council approval. Such guidelines may address administrative day-to-day operations of the Museum, duties of volunteers, creation of subcommittees, etc. and shall be consistent with City ordinances, polices and regulations.

(6) Subcommittees and Other Volunteers. The Museum Board may choose to appoint Board members to oversee specific duties or appoint other volunteers to work in and aid in the operation of the Museum events and programs as needed by creating subcommittees or appointing other volunteers, including tour guides. Prior to appointment, all volunteers must fill out a volunteer application with the City and submit to any required background checks.

(e) Board Duties. The Museum Board acts in an advisory and volunteer capacity to the City Council regarding the administration and operation of "The Whitaker," including, but not limited to the following:

(1) Prepare and recommend for approval by the City Council a long-range plan, including goals, for "The Whitaker", review any adopted long-range plan on an annual basis, and recommend any updates or changes to the City Council;

(2) Recommend to the City Council and implement programs, policies, financing, funding, legislation and other measures, educational programs or activities for the administration "The Whitaker" consistent with the goals of the long-range plan, including, but not limited to review of grant applications and the Museum Director's annual budget;

(3) Manage the overall operations of the Museum, the Museum Director, and all programs implemented by the Museum Board;

(4) Initiate, sponsor and promote involvement, activities and contributions by the public and private sectors in "The Whitaker" and its facilities, artifacts, programs and activities;

(5) Prepare and recommend for approval by the City Manager and/or City Council appropriate policies, guidelines and procedures for the use, administration and operation of "The Whitaker" and its facilities, artifacts, programs and activities and for the governance of the Board, and any updates or revisions to the same;

(6) Submit annual report to City Council regarding Museum and Board activities;

(7) Prepare and recommend to the City Manager and/or City Council employment standards and qualifications for the position of Museum Director of "The Whitaker", evaluate and make recommendations to the City Manager and Mayor regarding Museum Director's performance and continuing employment;

(8) Prepare and recommend for approval by the City Council collection management policies and system of approval of accession and deaccession of artifacts; and

(9) Prepare recommendations for building restorations, renovations, and repairs to the City Council.

(f) Chair Duties. It shall be the duty of the Chair to act as the primary point of contact between the City, other members of the Museum Board, and the Museum Director. In the absence of the Chair, the Vice-Chair assumes the duties of the Chair.

(1) Agenda. The Chair shall develop agendas for each meeting with input from the Museum Board members and the Museum Director.

(2) Meetings. The Chair shall preside at Museum Board meetings and provide overall leadership necessary to accomplish the mission and goals of the Board.

(3) Orientation. The Chair shall assist in the orientation of new Museum Board members and work with them to ensure they can successfully fulfill their assignments.

(g) Museum Director. The Museum Director manages the basic operations and programs of the Museum and shall be under the direct supervision of the Museum Board and subject to general supervision of the City Manager. The Museum Director shall perform the duties and functions as set forth in the Job Description for the Museum Director position. The Museum Director is not a voting member of the Museum Board, but serves in the capacity of employee. The City Manager shall be responsible for personnel matters and oversight regarding the Museum Director. The Museum Board may make recommendations or references regarding job performance of the Museum Director to the City Manager.

(h) Funding. The Museum Board shall operate under the direct supervision of the City Council. The Board's operations shall be funded by City funds, State and Federal grants, donations, contributions, and cultural event promotions, which funds shall be collected and held by the City in a special fund designated for such purposes. Funds may be distributed to the Board on a project by project basis as deemed necessary by the City Council and/or as part of the City's regular budgetary process.

(i) Purchasing. All purchases and expenditures for the Museum shall comply with the City's Procurement Policy, including, but not limited to budget approval requirements, approval limits, bidding procedures, exemptions, etc. For purposes of such policies, the Museum Director and Board Chair, or their designees, are hereby designated as authorized Purchasing Agents. All purchases and expenditures for the Museum shall also comply with any authorized Museum Board policies, guidelines or procedures. All purchases and expenditures for the Museum shall be consistent with the approved budget for the Museum.

CHAPTER 3-04.

PERSONNEL

- 3-04-010. Personnel Director.**
- 3-04-020. Personnel Policies and Procedures.**
- 3-04-030. Equal Opportunity Employer.**
- 3-04-040. Employee Appeals.**
- 3-04-050. Exclusions.**
- 3-04-060. Employee Appeal Board.**

3-04-010. Personnel Director.

The City Manager is designated as the Personnel Director. As Personnel Director, the City Manager shall implement and maintain the provisions of this Chapter and perform other duties as required by ordinance, resolution or policy of the City Council.

3-04-020. Personnel Policies and Procedures.

The City may establish and adopt personnel policies and procedures consistent with State and Federal laws and regulations for the administration, organization, operation, and conduct of its personnel.

3-04-030. Equal Opportunity Employer.

The policy of Centerville City is to comply with all federal, state and local laws, rule and regulations in the area of non-discrimination in employment. As such, it is Centerville's policy to provide equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, national origin, religion, sex, sexual orientation, age, pregnancy, child-birth or pregnancy-related condition, disability, genetics, political affiliation, or status as a veteran. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

3-04-040. Employee Appeals.

(a) Except as provided in Section 3-04-050, each employee of the City shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration only as provided in *Utah Code Ann.* § 10-3-1106, as amended.

(b) If an employee other than an employee excluded under Section 3-04-050 is discharged, suspended for more than two days without pay, or involuntarily transferred to a position with less remuneration for any disciplinary reason, the employee may appeal the final decision to discharge, suspend without pay, or involuntarily transfer to the Employee Appeal Board in accordance with and subject to the procedures set forth *Utah Code Ann.* § 10-3-1106, as amended.

3-04-050. Exclusions.

Section 3-04-040 does not apply to any officer, employee or position described herein, which position is deemed at-will and subject to termination with or without cause and without appeal rights pursuant to *Utah Code Ann.* § 10-3-1105, as amended.

(a) Designated Positions. Section 3-04-040 does not apply to a person who holds a position or equivalent position described as follows:

- (1) a police chief
- (2) a deputy or assistant police chief;

- (3) a head of a municipal department or division;
- (4) a superintendent;
- (5) a probationary or introductory employee;
- (6) a part-time employee;
- (7) seasonal, temporary or limited employees;
- (8) a person who works in the office of an elected official; or
- (9) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department and is specifically designated as an at-will excluded position.

(b) **Appointed Officers.** Section 3-04-040 does not apply to any person appointed to a position under Part 9, Appointed Officials and Their Duties, including, but not limited to, the City Manager, City Recorder, City Treasurer, City Engineer, City Attorney, Police Chief, and Fire Chief.

(c) **Layoffs and Reorganizations.** Section 3-04-040 does not apply to any employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff, reduction in force, reorganization, or other non-disciplinary action.

(d) **Statutory Exclusions.** Section 3-04-040 does not apply to any officer, employee, or position that is excluded under and in accordance with the provisions of *Utah Code Ann.* § 10-3-1105, as amended.

3-04-060. Employee Appeal Board.

(a) **Created.** There is an Employee Appeal Board for Centerville City created in accordance with *Utah Code Ann.* § 10-3-1106, as amended, to hear appeals of covered employees who have been discharged, suspended for more than two days without pay, or involuntarily transferred to a position with less remuneration.

(b) **Members.** The Employee Appeal Board consists of five (5) members, three (3) of whom are chosen by and from the appointed officers and employees of the City and two (2) of whom are chosen by and from the members of the City Council.

(c) **Selection of Members and Alternates.**

(1) **Council Members and Alternates.** The City Council shall designate two (2) of its members to serve on the Employee Appeal Board, hereinafter referred to as the "Council Members." The City Council shall also designate two (2) of its members to serve as Alternate Council Members.

(2) **Officer and Employee Members and Alternates.** The appointed officers and employees of the City shall elect three (3) of its members to serve on the Employee Appeal Board, hereinafter referred to as "Employee Members." The appointed officers and employees of the City shall also elect three (3) of its members to serve as Alternate Employee Members. Employee Members and Alternate Employee Members shall be elected in the following manner.

(i) **Nomination.** The City Manager shall send written notice to all appointed officers and employees of the City that they may make written nominations for officer and employee candidates to serve on the Employee Appeal Board and the closing date for filing such nominations with the City Recorder. Nominations received by the City Recorder after the closing date will not be considered.

(ii) Voting. Upon the closing of nominations, an election shall be held by all appointed officers and employees of the City to elect three (3) Employee Members of the Board and three (3) Alternate Employee Members. The election shall be by secret ballot. The three (3) individuals receiving the highest number of votes shall be deemed elected as Employee Members, and the next three (3) individuals receiving the highest number of votes shall be deemed elected as Alternate Employee Members.

(d) Limitation on Members. No person may sit on the Employee Appeal Board who also sat on a pre-disciplinary hearing of the appealing employee or whose employment with the City has terminated.

(e) Term. Elected Employee Members and designated Council Members shall serve for a term of two (2) years from the date of their election or designation. Members may serve additional terms in accordance with the election and appointment procedures set forth herein.

(f) Vacancies. Any vacancy in an Employee Member position shall be first filled by an Alternate Employee Member by drawing lots, and if no Alternate Employee Member is available, by nomination and election as provided herein at the time such vacancy occurs. Any vacancy in a Council Member position shall be filled first by an Alternate Council Member by drawing lots, and if no Alternate Council Member is available, by appointment as provided herein at the time such vacancy occurs.

(g) Procedures. All appeals to the Employee Appeal Board shall be conducted in accordance with *Utah Code Ann.* § 10-3-1106, as amended, and applicable provisions of the personnel policies and procedures adopted by the City.

CHAPTER 3-05. GOVERNMENT RECORDS

- 3-05-010. Government Records.**
- 3-05-015. Records Officer.**
- 3-05-020. Retention Schedule.**
- 3-05-030. Records Requests.**
- 3-05-040. Fees.**
- 3-05-050. Fee Waiver.**
- 3-05-060. Appeals to City Manager.**
- 3-05-070. Appeals to Records Committee or District Court.**

3-05-010. Government Records.

All government records of the City shall be maintained, classified and accessed in accordance with the Government Records Access and Management Act set forth at *Utah Code Ann.* §§ 63G-2-101, *et seq.*, as amended.

3-05-015. Records Officer.

The City Recorder is the records officer of the City appointed to work with the Utah Division of Archives and Records Service in the care, maintenance, scheduling, designation, classification, disposal, and preservation of City records. Pursuant to *Utah Code Ann.* § 63G-2-108, as amended, the records officer shall, on an annual basis, successfully complete online training and certification from the State Archives regarding government records access and management.

3-05-020. Retention Schedule.

All government records of the City shall be retained in accordance with the Utah Municipal General Records Retention Schedule, as created and retained by the Utah Division of Archives and Records Service, which is hereby adopted by reference as the Centerville City Records Retention Schedule. The City may classify or reclassify a particular record, record series, or information in a record at any time, in accordance with applicable provisions of *Utah Code Ann.* § 63G-2-307, as amended.

3-05-030. Records Requests.

Any person requesting a record shall file a written Government Records Access and Management Request Form as provided by the City. Such request shall be submitted and processed in accordance with the Government Records Access and Management Act. All government records requests shall contain the requestor's name, mailing address, and daytime phone number, if available, and shall provide a description of the record requested that identifies the record with reasonable specificity.

3-05-040 Fees.

The City may charge reasonable fees to cover the City's actual cost of providing a record. Fees for providing a record shall be adopted and set forth in the City's Fee Schedule, which fees may be amended from time to time. When the City compiles a record in a form other than that normally maintained by the City in response to a records request, the actual costs for compiling the record may include those costs set forth in *Utah Code Ann.* § 63G-2-203, as amended; provided, no charge may be made for the first quarter hour of staff time. The City may require payment of past fees and future estimated fees before beginning to process a request if: (1) fees are expected to exceed fifty dollars (\$50.00); or (2) the requester has not paid fees from previous requests. Any prepaid amount in excess of fees due shall be returned to the requester.

3-05-050 Fee Waiver.

In accordance with *Utah Code Ann.* § 63G-2-203, as amended, the City may fulfill a record request without charge when it determines that:

- (a) Releasing the record primarily benefits the public rather than a person;
- (b) The individual requesting the record is the subject of the record, or an individual specified in Subsections 63G-2-202(1) or (2) of the Act; or
- (c) The requester's legal rights are directly implicated by the information in the record and the requester is impecunious.

3-05-060 Appeals to City Manager.

Any person aggrieved by the City's access determination made or fees imposed under this Chapter may appeal the determination within thirty (30) days to the City Manager by filing a written notice of appeal with the City Manager in accordance with the provisions set forth in *Utah Code Ann.* § 63G-2-401, as amended. The notice of appeal shall contain the petitioner's name, mailing address, daytime phone number, and the relief sought. The notice of appeal should also contain a brief statement of facts, reasons, and legal authority in support of the appeal. The City Manager shall make a determination on the appeal within the time periods set forth in *Utah Code Ann.* § 63G-2-401, as amended. The City Manager shall send written notice of his or her determination to all participants, including notice of any right to appeal in accordance with Section 3-05-070.

3-05-070. Appeal to Records Committee or District Court.

If the City Manager denies a records request under Section 3-05-060, the requester may appeal the denial to the State Records Committee as provided in *Utah Code Ann.* § 63G-2-403, as amended, or petition for judicial review in district court as provided in *Utah Code Ann.* § 63G-2-404, as amended. Any person aggrieved by a determination of the City Manager under Section 3-05-060, including persons who did not participate in the appeal proceedings before the City Manager, may appeal the determination to the State Records Committee as provided in *Utah Code Ann.* § 63G-2-402, as amended.

CHAPTER 3-06. PROCUREMENT AND SURPLUS PROPERTY

- 3-06-010. Procurement Policies.**
- 3-06-020. Compliance.**
- 3-06-030. Surplus Property Definitions.**
- 3-06-040. Disposal of Surplus Property.**

3-06-010. Procurement Policies.

The City Council shall establish and adopt policies and procedures regarding the procurement of supplies, services, and construction for the City. Such policies and procedures shall provide for the equitable, efficient and economical procurement of supplies, services and construction for the City.

3-06-020. Compliance.

All expenditures of the City shall conform to the procurement policies and procedures adopted by the City and all applicable provisions of State law including, but not limited to, the Uniform Fiscal Procedures Act set forth at *Utah Code Ann.* §§ 10-6-101, *et seq.*, as amended. Any expenditures of the City involving federal assistance funds shall comply with applicable federal law and regulations.

3-06-030. Surplus Property Definitions.

(a) A “significant parcel of real property” shall mean a parcel of 1/4 acre or more in size or a parcel having a value of more than \$100,000 as determined by the City Council.

(b) “Reasonable notice” shall mean publishing a notice of the proposed disposition and of a public hearing before the City Council to consider such disposition once in a newspaper of general circulation within the City.

3-06-040. Disposal of Surplus Property.

(a) The City has the authority to sell, lease, convey and dispose of real and personal property for the benefit of the City as provided by *Utah Code Ann.* § 10-8-2, as amended.

(b) Before the City may dispose of a significant parcel of real property, the City shall:

(1) Provide reasonable notice of the proposed disposition at least fourteen (14) days before a scheduled meeting at which the City will hear public comment; and

(2) Hold a meeting at which the City Council accepts public comment on the proposed disposition.

(c) All disposal, leases, or subleases of such property of the City other than a significant parcel of real property, shall be made, as nearly as possible, under the same conditions and limitations as required by City Ordinances and State law for the purchase or sale of property.

(d) The City Council may also authorize at its discretion and under such terms and conditions as it may deem desirable, fair and appropriate, considering intended use, property tax value, and the interests of the City, the sale of any surplus property, through public auction or other method designed to best serve the interests of City residents and produce a fair return; the trade or exchange or any surplus property; and the lease or sublease of any surplus property.

CHAPTER 3-07. CONSTITUTIONAL TAKINGS REVIEW

- 3-07-010. Purpose and Intent.**
- 3-07-020. Constitutional Takings.**
- 3-07-030. Guidelines and Procedures for Review.**
- 3-07-040. Limitations.**

3-07-010. Purpose and Intent.

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

3-07-020. Constitutional Takings.

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

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

(b) Actions by the City involving the physical taking or exaction of private real property is not a Constitutional taking if the physical taking or exaction:

- (1) Bears an essential nexus to a legitimate governmental interest; and
- (2) Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

3-07-030. Guidelines and Procedures for Review.

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

(a) **Final Decision.** The person requesting a review must have obtained a final and authoritative determination by the City relative to the decision from which they are requesting review.

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

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

(d) **Additional Information.** In addition to the written request for review, the applicant shall submit prior to the date of review the following information. An application shall not be deemed "complete" or "submitted" until the reviewing body certifies to the applicant that all the materials and information

required herein have been received. The reviewing body shall promptly notify the applicant of an incomplete application. The following information shall be provided by the applicant:

- (1) Name of the applicant requesting review;
 - (2) Name and business address of current owner of the property, form of ownership, and name and address of all principal shareholders or partners if a business entity is involved;
 - (3) A detailed description of the grounds for the claim that there has been a Constitutional taking;
 - (4) A detailed description of the property alleged to have been taken;
 - (5) Evidence and documentation as to the value of the property alleged to have been taken, including any evidence of the value of the property before and after the alleged taking, the name of the party from whom the property was purchased and the relationship if any between the person requesting review and the party from whom the property was acquired;
 - (6) The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold, etc.;
 - (7) Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three (3) years prior to the date of application;
 - (8) All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;
 - (9) The assessed value of and the ad valorem taxes on the property for the previous three (3) years;
 - (10) All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of loan and other significant provisions, including but not limited to, right of purchasers to assume the loan;
 - (11) All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
 - (12) All studies commissioned by the applicant within the previous three (3) years concerning feasibility of development or utilization of the property;
 - (13) Itemized income and expense statements from the property for the previous three (3) years for income producing property;
 - (14) Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
 - (15) Any other additional information requested by the City which is reasonably necessary in its opinion to arrive at a conclusion concerning whether there has been a Constitutional taking.
- (d) Review. The City Council or its designee shall hear all the evidence related to and submitted in connection with the request for review to determine whether or not the action by the City constitutes a Constitutional taking as defined herein, including consideration of the following:
- (1) Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest;

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

(3) Whether the taking or exaction is roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact caused by the activities that are the subject of the decision being reviewed.

(e) Decision. The City Council or its designee shall render a final decision on the review within a reasonable time from the date the complete application for review was submitted to the City Recorder. The decision of the City Council or its designee regarding the results of the review shall be given in writing to the applicant and the official, employee, board, commission or council that rendered the final decision that gave rise to the Constitutional taking claim.

3-07-040. Limitations.

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

CHAPTER 3-08. DEVELOPMENT FEE APPEALS

- 3-08-010. Purpose.**
- 3-08-020. Request for Review.**
- 3-08-030. City Manager Review and Decision.**
- 3-08-040. Appeal to City Council.**
- 3-08-050. City Council Review and Decision.**
- 3-08-060. Standards for Appeal.**
- 3-08-070. Appeal to District Court.**

3-08-010. Purpose.

This section sets forth procedures for appealing a land use application or development fee charged by the City in accordance with and pursuant to *Utah Code Ann.* § 10-9a-510, as amended, but not including impact fees (hereinafter collectively referred to in this Chapter as a "development fee").

3-08-020. Request for Review.

Any applicant who is charged a development fee or an owner of residential property upon which a development fee is imposed by the City may request a review of the reasonableness of such fee to the City Manager by filing a written request for review of development fees with the City Recorder within thirty (30) days from the date the applicant or owner pays the fee to the City. The written request for review of development fees shall include at least the following:

- (a) The name, address and telephone number of the applicant or owner that paid the fee and the applicable property and development for which the fee was paid;
- (b) The fee being reviewed; and
- (c) The grounds for the review.

3-08-030. City Manager Review and Decision.

After the request for review application is determined to be complete, the City Recorder shall forward the request for review to the City Manager. The City Manager shall review the application and determine whether the fees are reasonable and/or whether the fees were charged in error. The City Manager may meet with the applicant or owner regarding the matter and shall issue his or her decision in writing.

3-08-040. Appeal to City Council.

Any person adversely affected by the final written decision of the City Manager regarding development fees may appeal such decision to the City Council by filing a written appeal with the City Recorder within thirty (30) days from the date of the City Manager decision. The appeal to the City Council shall include at least the following:

- (a) The name, address and telephone number of the applicant or owner that paid the fee and the applicable property and development for which the fee was paid;
- (b) The fee being appealed;
- (c) The grounds for the appeal; and
- (d) A description and allegation of every theory of relief that the appellant could raise in district court regarding the matter appealed.

3-08-050. City Council Review and Decision.

After the appeal application is determined to be complete, the City Recorder shall forward the appeal to the City Council and schedule a public meeting before the City Council in order to hear the appeal. Public notice of the public meeting shall be provided in accordance with the provisions of the Utah Open Meetings Act. The City Council shall provide the appellant an opportunity to be heard regarding the fee appeal and shall provide and respect the due process rights of all participants. The City Council shall review and decide the fee appeal in accordance with applicable standards set forth in Section 3-08-060. The appeal hearing shall be recorded in accordance with applicable provisions of the Utah Open Meetings Act and all records of the appeal shall be maintained by the City in accordance with applicable provisions of the Government Records Access and Management Act. The City Council shall issue its decision in writing to the appellant.

3-08-060. Standards for Appeal.

The following standards shall apply to appeals of development fees.

(a) Pursuant to *Utah Code Ann.* § 10-9a-510, as amended, appeals of development fees shall be limited to determining whether a fee reflects only the reasonable estimated cost of: (i) regulation; (ii) processing the application; (iii) issuing the permit; or (iv) delivering the service for which the applicant or owner paid the fee.

(b) The person making the appeal has the burden of proving that the fees are not reasonable or that an error has been made.

(c) The City Council's review of the matter shall be a de novo review and the City Council shall be deemed to be acting in a quasi-judicial manner.

3-08-070. Appeal to District Court.

Any person adversely affected by a final decision of the City Council regarding development fees as provided herein may appeal that decision to the district court as provided in *Utah Code Ann.* § 10-9a-801, as amended. As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a development fee in accordance with the review and appeal procedures set forth herein.