

TITLE 1

CHAPTER 5

**MAYOR AND CITY COUNCIL**

SECTION:

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**1-5-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS**

- A. Declaration of Candidacy: A person filing a declaration of candidacy for a city office shall:
  - 1. Have been a resident of the city in which the person seeks office for at least three hundred sixty five (365) consecutive days immediately before the date of the election; and
  - 2. Meet the other requirements of Utah Code Annotated.
- B. Annexed Areas: A person living in an area annexed to the city meets the residency requirement of this section if that person resided within the area annexed to the city for at least three hundred sixty five (365) consecutive days before the date of the election.
- C. Registered Voter: Any person elected to city office shall be a registered voter in the city.
- D. Residency Maintained: Each elected officer of the city shall maintain residency within the boundaries of the city during the officer's term of office.
- E. Residence Outside City: If an elected officer of the city establishes a principal place of residence as provided in Utah Code Annotated outside of the city during the officer's term of office, the office is automatically vacant.
- F. Continuous Absence from City: If an elected city officer is absent from the city any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the city council, the city office is automatically vacant. (2005 Code)

**1-5-2: MEMBERSHIP; TERMS**

- A. Composition: The governing body shall be a council composed of six (6) members, one of whom shall be the mayor and the remaining five (5) shall be council members.
- B. Election; Terms: The election and terms of office of the officers shall be as follows:
  - 1. The offices of mayor and two (2) council members shall be filled in municipal elections held in 1977. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.
  - 2. The offices of the other three (3) council members shall be filled in a municipal election held in 1979. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.
- C. Vacancy in Office: Mayor or city council vacancies shall be filled as provided in Utah Code Annotated. (2005 Code)

**1-5-3: MAYOR AS MEMBER OF CITY COUNCIL**

- A. Administration Vested in Mayor: The administrative powers, authority and duties are vested in the mayor.
- B. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the city council. In the absence of the mayor or because of his inability or refusal to act, the city council may elect a member of the city council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.
- C. Voting; No Vote Except in Tie: The mayor shall not vote, except in the case of a tie vote of the city council.
- D. Powers and Duties:
  - 1. The mayor is the chief executive officer to whom all employees of the city shall report.
  - 2. The mayor shall:
    - a. Keep the peace and enforce the laws of the city;
    - b. Remit fines and forfeitures;
    - c. Report remittances under subsection D2b of this section to the city council at its next regular session;

- d. Perform all duties prescribed by law, resolution or ordinance;
  - e. Ensure that all the laws and ordinances and resolutions are faithfully executed and observed;
  - f. Report to the city council the condition of the city and recommend for city council consideration any measures that the mayor considers to be in the best interests of the city;
  - g. When necessary, call on the residents of the city over the age of twenty one (21) years to assist in enforcing the laws of the state and ordinances of the city;
  - h. Appoint, with the advice and consent of the city council, persons to fill city offices or vacancies on commissions or committees of the city; and
3. The mayor may at any reasonable time, examine and inspect the official books, papers, records or documents of the city or of any officer, employee or agent of the city.
- E. No Veto: The mayor shall have no power to veto any act of the city council, unless otherwise specifically authorized by statute. (Utah State Code Annotated; amd. 2005 Code)

**1-5-4: MUNICIPAL ADMINISTRATION**

- A. Prescribe Additional Powers and Duties: The city council may, by resolution, prescribe additional duties, powers and responsibilities for any elected or appointed official which are not prohibited by any specific statute, except that the mayor may not serve as city recorder and neither the mayor nor the city recorder may serve as city treasurer. A justice court judge may not hold any other city office or position of employment with the city.
- B. Members of Council May be Appointed to Administration: The mayor may, with the advice and consent of the majority of the city council, assign or appoint any member or members of the city council to administer one or more departments of the city and shall by ordinance provide the salary of the administrator.
- C. Change of Duties: The mayor may, with the concurrence of a majority of the city council, change the administrative assignment of any member of the city council who is serving in any administrative position in the city government.
- D. General Administrative Powers: The city council shall, from time to time, prescribe the powers and duties to be performed by the superintendents, supervisors, department directors and all of its officers and employees.
- E. Personnel Assigned to One or More Departments: The city council may assign any individual to one or more positions in one or more departments.

- F. Rules and Regulations for Administration: The city council shall prescribe rules and regulations which are not inconsistent with the laws of this state, as it deems best for the efficient administration, organization, conduct and business of the city.
- G. Appointed Officers; Residency Requirements: The city council may require by ordinance that any or all appointed officers reside in the city. (2005 Code)

**1-5-5: MEETINGS; PROCEDURE AND CONDUCT**

- A. Regular Meetings: The city council shall hold two (2) regular meetings, which shall be held on the second and fourth Tuesdays of each month at the city office building, 520 S 500 E, River Heights, Utah, which meetings shall begin promptly at six thirty o'clock (6:30) P.M.; provided, that:
  - 1. If the meeting date is a legal holiday, then the meeting may be cancelled.
  - 2. The city council may, by resolution, provide for a different time and place for holding regular meetings of the city council. (Utah State Code Annotated; amd. 2005 Code)
- B. Special Meetings: If at any time the business of the city requires a special meeting of the city council, such meeting may be ordered by the mayor or any two (2) members of the city council. The order shall be entered in the minutes of the city council. The order shall provide at least three (3) hours' notice of the special meeting and notice thereof shall be served by the city recorder on each 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 any specially called meeting constitutes a waiver of the notice required in this subsection.
- C. Open Meetings: Every meeting is open to the public, unless closed pursuant to Utah Code Annotated as amended. (4-2010, 7-13-10)
- D. Quorum:
  - 1. Defined: The number of members of the city council necessary to constitute a quorum is three (3) or more.
  - 2. Necessary: No action of the city council shall be official or of any effect, except when a quorum of the members are present. Fewer than a quorum may adjourn from time to time. (2005 Code)
- E. Voting:
  - 1. How Vote Taken: A roll call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the city and in any other case at the request of any member of the city council by a "yes" or a "no" vote and shall be recorded. The city recorder shall call the roll in alphabetical order and record the vote. Every resolution or ordinance shall be

in writing before the vote is taken. (As described in Utah State Code Annotated; amd. 2005 Code)

2. Minimum Vote Required: The minimum number of yes votes required to pass any ordinance, resolution or to take any action by the city council, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3). Any ordinance, resolution or motion of the city council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the city council even though such majority vote is less than that required herein. (1-2015, 6-23-15)
  3. Reconsideration: Any action taken by the city council shall not be reconsidered or rescinded at any special meeting unless the number of members of the city council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved. (2005 Code)
- F. Record of Proceedings: The city recorder shall keep a record of the proceedings of the meetings of the city council, except that minutes of executive sessions shall not be available to the public until such time as the city council shall make them public or by an order of court. (As described in Utah State Code Annotated)
- G. Conduct and Order of Business:
1. Rules of Procedure: Except as otherwise specifically required or provided by law, these ordinances, or by resolution of the city council, the most current edition of "Robert's Rules of Order" shall govern the procedure and conduct of the meetings of the city council. (Utah State Code Annotated)
  2. Agenda: All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the city council, shall be delivered to the city recorder at least seven (7) hours prior to each city council meeting, whereon the city recorder shall furnish each member of the city council, and when present, the city attorney, with a copy of the same prior to the city council meeting and as far in advance of the meeting as time for preparation will permit. Only the foregoing matters shall be presented to the city council by administrative officials, except those of an urgent nature; provided, that the city council may, by motion, waive the requirements of this subsection. (Utah State Code Annotated; amd. 2005 Code)
  3. Changes: The governing body may by motion change, amend or delete any agenda item provided for in this subsection. (Utah State Code Annotated; amd. 2005 Code)

#### **1-5-6: ELECTRONIC MEETING; PROCEDURE**

- A. Prior to or at the beginning of an electronic meeting, the mayor shall verify that proper notice of the meeting was given pursuant to Utah Code Annotated, unless closed under said State Code.

- B. Prior to or at the beginning of the electronic meeting or portion of the electronic meeting in which nonpresent members will be participating, the Mayor shall confirm that the nonpresent members are connected via electronic means (i.e.: telephonic or telecommunications conference).
- C. The electronic connection shall be such that all members, both present and nonpresent, may hear the proceedings of the meeting, or portion of the meeting, in which they are participating.
- D. If voting is required, the Mayor shall require a roll call vote, so that the nonpresent members' votes may be counted.
- E. The Mayor shall require all participants in the electronic meeting to verbalize their statements and responses, so that the nonpresent members may hear them.
- F. The Mayor shall require that all visual aids and written materials not available to the nonpresent members be verbally described. (1-2015, 6-23-15)

**1-5-7: ORDINANCES AND RESOLUTIONS; PROCEDURES**

- A. Power Exercised by Ordinance: The city council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the city shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.
- B. Form of Ordinance: Any ordinance passed by the city council shall contain and be in substantially the following order and form:
  - 1. A number;
  - 2. A title which indicates the nature of the subject matter of the ordinance;
  - 3. A preamble which states the need or reason for the ordinance;
  - 4. An ordaining clause which states "Be it ordained by River Heights City:";
  - 5. The body or subject of the ordinance;
  - 6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the city ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;

7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
8. A line for the signature of the mayor or acting mayor to sign the ordinance;
9. A place for the city recorder to attest the ordinance and affix the seal of the city;
10. Where the mayor may disapprove an ordinance passed by the city council, the ordinance must show that it was passed with the mayor's approval or that if the mayor disapproved the ordinance that it was passed over his disapproval. If the mayor neither approves nor disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the mayor.

C. Requirements as to Form; Effective Date:

1. Ordinances passed or enacted by the city council shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the city council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated.
2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the city council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.
3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the city council, whichever is sooner.

D. Publication and Posting of Ordinances:

1. Before an ordinance may take effect, the legislative body of the city adopting an ordinance, except an ordinance enacted under Utah Code Annotated:
  - a. Deposit a copy of the ordinance in the office of the city recorder; and
  - b. Publish a short summary of the ordinance at least once:
    - (1) In a newspaper published within the city; or
    - (2) If there is no newspaper published within the city, in a newspaper of general circulation within the city; or
  - c. Post a complete copy of the ordinance in three (3) public places within the municipality.

2. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least three (3) copies have been filed for use and examination by the public in the office of the city recorder prior to the adoption of the ordinance by the governing body.
3. Any state law relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.
4. The ordinance adopting the code or book shall be published in the manner provided in this subsection.

E. Recording, Numbering and Certification of Passage:

1. The city recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council. The city recorder shall give each ordinance a number, if the city council has not already so done. Immediately following each ordinance, or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage and publication or posting of the ordinance or codification.
2. The city recorder, insofar as possible, shall assign all ordinances of a general nature a number, which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.
3. The city recorder shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedication, bond issues and tax levies, in a separate book of "special ordinances" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two (2) digits of the year the ordinance is adopted, followed by a dash which is followed by a number indicating the order in which such special ordinance was adopted during the year.

F. Resolutions:

1. Purpose: Unless otherwise required by law, the city council may exercise all administrative powers by resolution, including, but not limited to:
  - a. Establishing water and sewer rates;
  - b. Charges for garbage collection and fees charged for city services;
  - c. Establishing personnel policies and guidelines; and
  - d. Regulating the use and operation of the city property. Punishment, fines or forfeitures may not be imposed by resolution.

2. Form: Any resolution passed by the city council shall be in a form and contain sections substantially similar to that prescribed for ordinances.
3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the city council may determine, but resolutions may not become effective more than three (3) months from the date of passage. (Utah State Code Annotated; amd. 2005 Code)