

Moroni City
Codes and Ordinances

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Official City Code

Section

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1-1-1: Title

Upon the adoption by the City Council, this City Code is hereby declared to be and shall hereafter constitute the Official City Code of Moroni. This City Code of ordinances shall be known and cited as the Moroni City Code and is hereby published by authority of the City Council and shall be supplemented to incorporate the most recent legislation of the City as provided in Section 1-1-3 of this Chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, it's appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this City Code by title in any legal documents. (1982 Code § 1-001; amd. 2000 Code)

1-1-2: Acceptance

The City Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in Section 1-2-1 of this Title (2000 Code)

1-1-3: Amendments

Any ordinance amending the City Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said Moroni City ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code. (2000 Code)

1-1-4: Code Alterations

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this City Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the City Council. The City Recorder/Clerk shall see that the replacement pages are properly inserted in the official copies maintained in the office of the City Recorder/Clerk. Any person having custody of a copy of the City Code shall make every effort to maintain said Code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the City Recorder/Clerk. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the City Recorder/Clerk when directed so to do by order of the City Council. (2000 Code)

1-1-5: Incorporation of Statutes

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this Code, unless the provisions of this Code specifically include, incorporate or make the citation or statute part of this Code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the City Council. (1982 Code § 1-009)

Saving Clause

Section

- Repeal of General Ordinances 1-2-1
- Public Ways and Public Utility Ordinances 1-2-2
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1-2-1: Repeal of General Ordinances

1. **Repealer/Exceptions:** All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are included in this City Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances •and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the City; Master Plan adopted April 24, 1979; and all special ordinances. (1982 Code § 1-002; amd. Ord. 11-8-95, 11-8-1995; 2000 Code)
2. **Effect Of Repealing Ordinances:** The repeal of the ordinances provided in subsection A of this Section, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded. (1982 Code § 1-003)

1-2-2: Public Ways and Public Utility Ordinances

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this City Code or by virtue of the preceding Section, excepting as the City Code may contain provisions for such matters, in which case, this City Code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2000 Code)

1-2-3: Court Proceedings

1. **Prior Acts:** No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, and applied to any judgment announced after the new ordinance takes effect.
2. **Scope of Section:** This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
3. **Actions Now Pending:** Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed, and the provisions of all general ordinances contained in this City Code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of the adoption of this City Code. (2000 Code)

1-2-4: Severability Clause

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this City Code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code, or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (1982 Code § 1-007; amd. 200Q Code)

Definitions

Section

- Construction of Words 1-3-1
- General Definitions 1-3-2
- Catch lines 1-3-3

1-3-1: Construction of Words

1. Whenever any word in any section of this City Code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this City Code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this City Code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto. The use of any verb in the present tense shall include the future and past tense when applicable. (2000 Code)
2. All words and phrases shall be constructed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning. (1982 Code § 1 -005A)
3. The word “ordinance” contained in the ordinances of the City has been changed in the content of this City Code to “Title”, “Chapter”, “Section” and/or “subsection” or words of like import for organizational and clarification purposes only. Such change to the City’s ordinances is not meant to amend passage and effective dates of such original ordinances. (2000 Code)

1-3-2: General Definitions

Whenever the following words or terms are used in this Code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

- **Agent:** A person acting on behalf of another with authority conferred, either expressly or by implication.
- **Business:** Includes any trade, profession, calling, activity, operation or enterprise for which a license or permit is required by any ordinance of the City.

- **City:** The City of Moroni, Sanpete County, Utah.
- **City Council:** Unless otherwise indicated, the City Council of the City of Moroni, Utah.
- **City Recorder/Clerk:** The individual appointed to act as the City Recorder/Clerk of the City.
- **Code:** The City Code of the City of Moroni, Utah.
- **County:** Sanpete County, Utah.
- **Employees:** Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words “of the City of Moroni”.
- **Fee:** A sum of money charged by the City for the carrying on of a business, profession or occupation.
- **Gender:** A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.
- **Highway/Road:** Includes public bridges, and may be equivalent to the words “County way”, “County road”, “Common road”, and “State road”.
- **License:** The permission granted for the carrying on of a business, profession or occupation. The term “license” includes any certificate, permit or license issued by the City.
- **Location:** Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of this City.
- **Nuisance:** Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the City, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.
- **Occupant or Tenant:** As applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.
- **Offense:** Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.
- **Officers/Officials:** Any elected or appointed person employed by the City, unless the context clearly indicates otherwise. Whenever reference is made in this Code to a City

officer or official by title only, this shall be construed as though followed by the words “of the City of Moroni”.

- **Operator:** The person who is in charge of any operation, business or profession.
- **Owner:** As applied to a building or land, shall include any part owner, joint owner, tenant in common, and joint tenant or lessee of the whole or of a part of such building or land.
- **Person:** Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.
- **Personal Property:** Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.
- **Property:** Includes both real and personal property.
- **Reasonable Time:** In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.
- **Retailer:** Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
- **Right of Way:** The privilege of the immediate use of the roadway or other property.
- **State:** The State of Utah.
- **Street:** Includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.
- **Tenant or Occupant:** As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
- **Time Computed:** The time within which an act is to be done as provided in any ordinance or in any resolution or order of the City, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.
- **Week:** Shall be construed to mean any seven (7) day period.

- **Wholesaler:** The terms “wholesaler” and “wholesale dealer” as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.
- **Written in Writing:** May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person’s proper mark. (1982 Code § 1-005; amd. 2000 Code)

1-3-3: Catch lines

The catch lines of the several sections of the City Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted. (1982 Code § 1-006; amd. 2000 Code)

General Penalty

Section

- Sentencing 1-4-1
- Offenses Designated; Classified 1-4-2
- Administrative Remedies 1-4-3

1-4-1: Sentencing

1. **Penalty For Violation Of Ordinance:** Unless otherwise specifically authorized by statute, the City Council may provide a penalty for the violation of any City ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Annotated section 76-3-301, or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment. The City Council may prescribe a minimum penalty for the violation of any City ordinance and may impose a civil penalty for the unauthorized use of City property, including, but not limited to, the use of parks, streets and other public grounds or equipment. Rules of civil procedure shall be substantially followed. (2000 Code)
2. **Term Of Imprisonment for Misdemeanors:** A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:
 - a. Class B: In the case of a Class B misdemeanor, for a term not exceeding six (6) months;
 - b. Class C: In the case of a Class C misdemeanor, for a term not exceeding ninety (90) days. (1982 Code § 1-322) 1. U.C.A. § 76-3-204.
3. **Infractions:**
 - a. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination. (1982 Code § 1-323; amd. 2000 Code)
 - b. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor. (1982 Code § 1-323)

4. **Fines Of Persons:** A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:
 - a. Class B: One thousand dollars (\$1,000.00) when the conviction is of a Class B misdemeanor conviction; and
 - b. Class C; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a Class C misdemeanor conviction or infraction conviction. (1982 Code § 1-331; amd. 2000 Code)

5. **Fines Of Corporations:** The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this Code, or the ordinances of the City, or for an offense defined outside of this Code over which this City has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:
 - a. Class B: Five thousand dollars (\$5,000.00) when the conviction is for a Class B misdemeanor conviction; and
 - b. Class C; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction. (1982 Code § 3-332; amd. 2000 Code)
 1. U.C.A. § 76-3-205; 2. U.C.A. § 76-3-301; 3. U.C.A. § 76-3-302.

1-4-2: Offenses Designated; Classified

1. **Sentencing In Accordance With Chapter:**
 - a. A person adjudged guilty of an offense under this Code or the ordinances of this City shall be sentenced in accordance with the provisions of this Chapter.
 - b. Ordinances enacted after the effective date hereof which involve an offense should be classified for sentencing purposes in accordance with this Chapter, unless otherwise expressly provided. (1982 Code § 1-311)

2. **Designation of Offenses:** Offenses are designated as misdemeanors or infractions. (1982 Code § 1-312)

3. **Misdemeanors Classified**

- a. Misdemeanors are classified into two (2) categories:
 - i. Class B misdemeanors;
 - ii. Class C misdemeanors.
- b. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this Code or any ordinance of this City when no other specification as to punishment or category is made is a Class B misdemeanor. (1982 Code § 1-313)

4. **Infractions:**

- a. Infractions are not classified.
 - b. Any offense which is made an infraction in this Code or other ordinances of this City, or which is expressly designated an infraction and any offense designated by this Code or other ordinances of this City which is not designated as a misdemeanor and for which no penalty is specified is an infraction. (1982 Code § 1-314)
5. **Continuing Violation:** In all instances where the violation of this Code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur. (1982 Code 1. U.C.A. § 76-3-104. § 1-315)

1-4-3: Administrative Remedies

1. **Request:** Unless otherwise specifically provided in any ordinance of the City or any code adopted by reference, a hearing before the City Council may be requested by any person:
 - a. Who is denied or refused a permit or license by any officer, agent or employee of this City.
 - b. Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued. (1982 Code § 1-411)
2. **Form Of Request:** The request for hearing must be made in writing to the Mayor or City Recorder/Clerk and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying or restricting the license or permit is mailed by the City to

the applicant or license holder at his address as it appears on the application or license. (1982 Code § 1-412)

3. **Procedure:**

- a. **Time and Place:** Following receipt of a request for hearing, the City Council shall inform the person requesting a hearing of the time and place the hearing is to be held.
 - b. **Witnesses; Evidence:** At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the City may produce to support its decision and to present his own evidence in support of his contention.
 - c. **Decision of City Council:** The City Council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the City Council. (1982 Code § 1-413)
4. **Not Additional Remedy:** This Chapter shall not be construed so as to afford any aggrieved party more than one hearing before the City Council, nor shall the hearing provided in this Chapter apply to any criminal complaint or proceeding. (1982 Code § 1-414)

Mayor and City Council

Section

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- Membership; Terms 1-5-2
- Campaign Finance Disclosure Requirements 1-5-3
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1-5-1: Eligibility and Residency Requirements

1. **Declaration of Candidacy:** A person filing a declaration of candidacy for a City office shall:
 - a. Have been a resident of the City for at least one year immediately before the date of the election; and
 - b. Meet the other requirements of Utah Code Annotated section 20A-9-203.
2. **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 one year before the date of the election.
3. **Registered Voter:** Any person elected to City office shall be a registered voter in the City.
4. **Residency Maintained:** Each elected officer of the City shall maintain residency within the boundaries of the City during his term of office.
5. **Residence Outside City:** If an elected officer of the City establishes his principal place of residence as provided in Utah Code Annotated section 20A-2-105 outside of the City during his term of office, the office is automatically vacant.

6. **Continuous Absence From City:** If an elected City officer is absent from the City any time during his 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. (1982 Code § 3-301; amd. 2000 Code)

1-5-2: Membership; Terms

1. **Composition:** The City Council shall be a Council of six (6) persons, one of whom shall be the Mayor and the remaining five (5) shall be Council members. (1982 Code § 3-105; amd. 2000 Code)
2. **Election; Terms:** The election and terms of office of the officers shall be as follows:
 - a. The offices of Mayor and two (2) Council members shall be filled in Municipal elections. The terms shall be for four (4) years. These offices shall be filled every four (4) years in Municipal elections.
 - b. The offices of the other three (3) Council members shall be filled in a Municipal election. The terms shall be for four (4) years. These offices shall be filled every four (4) years in Municipal elections.
 - c. The offices shall be filled in at-large elections which shall be held at the time and the manner provided for electing Municipal officers. (1982 Code § 3-205; amd. 2000 Code)
 - d. Where both two (2) year and four (4) year terms are to be filled by election or appointment, the election ballot or appointment shall clearly state which persons are to be elected or appointed to the shorter term and to the longer term. (1982 Code § 3-207; amd. 2000 Code)
3. **Vacancy in Office:** Mayor or City Council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510. (1982 Code § 3-302; amd. 2000 Code)

1-5-3: Campaign Finance Disclosure Requirements

1. **General:** All candidates for elective municipal office shall comply with the campaign finance disclosure requirements set forth in this chapter.
2. **Definitions:** The following definitions shall be applicable to this chapter:

- a. **Candidate:** shall mean any person who files a "**Declaration of Candidacy**," for an elective office of the City; or is nominated by a committee, party or petition; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nomination or election to such office; or causes on his/her behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.
 - b. **Contribution:** shall mean monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.
3. **Filing of Disclosure Reports:** Each candidate for elective office who either receives more than **\$750.00** in campaign contributions or spends more than **\$750.00** in campaign expenses shall file with the City Recorder dated and signed financial reports, which comply with this chapter. The City shall make forms available. Other forms in substantially the format are also acceptable.
4. **Time of Filing:** The reports required by this chapter shall be filed at least seven (7) days before both the primary and general elections and at least once within thirty (30) days following the election. A candidate losing in the primary shall file the final report within thirty (30) days of the date of the primary election.
5. **Contents of Statement:**
- a. The statements filed seven (7) days before the election shall include:
 - i. A list of each contribution of more than \$50.00 received by the candidate, and the name of the donor.
 - ii. An aggregate total of all contributions of \$50.00 or less received by the candidate; and
 - iii. A list of each expenditure for political purposes made during the campaign period as of ten (10) before the date of the election, and the recipient of each expense.
 - b. The statement filed thirty (30) days after the elections shall include:
 - i. A list of each contribution of more than \$50.00 received after the cutoff date for the statement filed seven (7) days before the election, and the name of the donor;

- ii. A total of all contributions of \$50.00 or less received by the candidate after the cutoff date for the statement filed seven (7) days before the election.
 - iii. A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven (7) days before the election, and the recipient of each expense.
 - c. All contributions and expenditures related to the candidate's candidacy should be accounted for between the pre-election and post-election statement.
6. **Penalty for Noncompliance:** Any candidate who fails to comply with the provisions of this chapter is guilty of an infraction. (8-8-2001 Code)

1-5-3: Mayor as Member of City Council

1. **Administration Vested In Mayor:** The administrative powers, authority and duties are vested in the Mayor. (1982 Code § 3-808; amd. 2000 Code)
2. **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. (1982 Code § 3-403; amd. 2000 Code)
3. **Voting; No Vote except in Tie:** The Mayor shall not vote, except in the case of a tie vote of the City Council. (1982 Code § 3-402; amd, 2000 Code)
4. **Powers And Duties:** The Mayor shall:
 - a. Be the chief executive officer to whom all employees' of the City shall report;
 - b. Keep the peace and enforce the laws of the City;
 - c. Remit fines and forfeitures and may release any person imprisoned for violation of any City ordinance;
 - d. Report such remittance or release to the City Council at its next regular session;
 - e. Perform all duties prescribed by law, resolution or ordinance;

- f. Ensure that all the laws and ordinances and resolutions are faithfully executed and observed;
 - g. May at any reasonable time examine and inspect the books, papers, records or documents of the City or of any officer, employee or agent of the City;
 - h. Report to the City Council the condition of the City and recommend for City Council consideration any measures as deemed to be in the best interests of the City;
 - i. 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; and
 - j. Appoint, with the advice and consent of the City Council, persons to fill City offices or vacancies on commissions or committees of the City. (1982 Code § 3-809; amd. 2000 Code)
5. **No Veto:** The Mayor shall have no power to veto any act of the City Council, unless otherwise specifically authorized by statute. (1982 Code § 3-404; amd. 2000 Code)

1-5-4: Municipal Administration

1. **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. (1982 Code § 3-810; amd. 2000 Code)
2. **Members of Council Appointed to Administration:** The Mayor may, with the advice and consent of the majority of the City Council, assign or appoint any member of the City Council to administer one or more departments of the City and shall by ordinance provide the salary for the administrator. (1982 Code § 3-81 1; amd. 2000 Code)
3. **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. (1982 Code § 3-812; amd. 2000 Code)

4. **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. (1982 Code § 3-813; amd. 2000 Code)
5. **Personnel Assignments:** The City Council may assign any individual to one or more positions in one or more departments. (1982 Code § 3-814; amd. 2000 Code)
6. **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. (1982 Code § 3-815; amd. 2000 Code)
7. **Residency Requirement; Appointed Officers:** The City Council may require by ordinance that any or all appointed officers reside in the City. (1982 Code § 3-816; amd. 2000 Code)

1-5-5: Meetings; Procedure and Conduct

1. **Regular Meetings:**
 - a. The City Council shall hold one regular meeting, which shall be held on the first Thursday of each month at the Moroni City Hall, which meetings shall begin promptly at seven o'clock (7:00) P.M. The third Thursday of each month is also reserved for council meeting if deemed necessary.
 - b. The City Council may, by ordinance, provide for a different date, time and place for holding regular meetings of the City Council. (Ord. 11-8-95, 11-8-1995; amd. 2000 Code)
2. **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/Clerk 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. (1982 Code § 3-503; amd. 2000 Code)
3. **Open Meetings:** Every meeting is open to the public, unless closed pursuant to Utah Code Annotated sections 52-4-4 and 52-4-5, (1982 Code § 3-601; amd. 2000 Code)

4. Quorum:

- a. Defined: The number of members of the City Council necessary to constitute a quorum is three (3) or more. (1982 Code § 3-505; amd. 2000 Code)
- b. Necessary: No action of the City Council shall be official or of any effect except when a quorum of the members are present. Less than a quorum may adjourn from time to time. (1982 Code § 3-504; amd. 2000 Code)

5. Voting:

- a. 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. Every resolution or ordinance shall be in writing before the vote is taken. (1982 Code § 3-507; amd. 2000 Code)
- b. Minimum Vote Required: The minimum number of 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).
 - i. 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.
 - ii. A majority of the members of the City Council, regardless of number, may fill any vacancy in the City Council. (1982 Code § 3-508; amd. 2000 Code)
- c. 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. (1982 Code § 3-509; amd. 2000 Code)

1-5-6: Ordinances and Resolutions; Procedures

1. **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. (1982 Code § 3-702; amd. 2000 Code)
2. **Penalty for Violation:** Unless otherwise specifically authorized by statute, the City Council may provide a penalty for the violation of any City ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment. The City Council may prescribe a minimum penalty for the violation of any City ordinance and may impose a civil penalty for the unauthorized use of City property, including, but not limited to, the use of parks, streets and other public grounds or equipment. Rules of civil procedure shall be substantially followed. (1982 Code § 3-703; amd. 2000 Code)
3. **Form of Ordinance:** Any ordinance passed by the City Council shall contain and be in substantially the following order and form:
 - a. A number
 - b. A title which indicates the nature Of the subject matter of the ordinance;
 - c. A preamble which states the need or reason for the ordinance;
 - d. An ordaining clause which states “Be it ordained by the City of Moroni”
 - e. The body or subject of the ordinance;
 - f. 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;

- g. 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;
 - h. A line for the signature of the Mayor or Acting Mayor to sign the ordinance;
 - i. 9. A place for the City Recorder/Clerk to attest the ordinance and affix the Seal of the City; and
 - j. 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. (1982 Code § 3-704; amd. 2000 Code)
4. **Requirements as to Form; Effective Date:**
- a. 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 section 10-3-704(1) through (4). (1982 Code § 3-705; amd. 2000 Code)
 - b. 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. (1982 Code § 3-712; amd. 2000 Code)
 - c. 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. (1982 Code § 3-705; amd. 2000 Code)
5. **Publication And Posting Of Ordinances:** All ordinances, except those enacted pursuant to Utah Code Annotated sections 10-3-706 through 10-3-710, before taking effect, shall be deposited in the office of the City Recorder/Clerk and a short summary of the ordinance published at least once in a newspaper published within the City, or if there is no newspaper published therein, then by posting complete copies in three (3) public places within the City. Any ordinance, code or book, other than the State Code, relating

to building or safety standards, City 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/Clerk prior to the adoption of the ordinance by the City Council. Any State law relating to building or safety standards, City 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. The ordinance adopting the code or book shall be published in the manner provided in Utah Code Annotated sections 10-3-709 and 10-3-710. (1982 Code § 3-711; amd. 2000 Code)

6. Recording, Numbering And Certification Of Passage:

- a. The City Recorder/Clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the City Council. Immediately following each ordinance, or codification of ordinances, the City Recorder/Clerk 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. (1982 Code § 3-713; amd. 2000 Code)
- b. The City Recorder/Clerk, insofar as possible, shall assign all ordinances a number. The first number of the 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 which shall be a sequential, ascending number indicating the order in which such special ordinance was adopted during the year.
- c. Failure to comply with this subsection shall not affect or render invalid any ordinance of the City. (1982 Code § 1-008; amd. 2000 Code)

7. Resolutions:

- a. 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. (1982 Code § 3-717; amd. 2000 Code)

- b. Form: Any resolution passed by the City Council shall be in a form and contain sections substantially similar to that prescribed for ordinances. (1982 Code § 3-718; amd. 2000 Code)

- c. 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. (1982 Code § 3-719; amd. 2000 Code)

Officers and Employees

Section

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- Compensation 1-6-2
- Bond Requirements 1-6-3
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- Official Neglect and Misconduct 1-6-5
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1-6-1: Creating Offices; Filling Vacancies

1. **Offices Created by Council:** The City Council may create any office deemed necessary for the government of the City and provide for filling vacancies in elective and appointive offices. (1982 Code § 3-901; amd. 2000 Code)
2. **Mayor to appoint and Fill Vacancies:** The Mayor, with the advice and consent of the City Council, may appoint and fill vacancies in all offices provided for by law or ordinance.
3. **Continuation in Office:** All appointed officers shall continue in office until their successors are appointed and qualified. (1982 Code § 3-916; amd, 2000 Code)

1-6-2: Compensation

1. The salary of the officers of the City shall be paid in the amount and at such times as is below specified:

a. Mayor	Quarterly	\$250.00
b. Council member	Quarterly	200.00

(1982 Code § 3-818; amd. 2000 Code)

2. Each elected officer shall be paid on the last payday of each quarter, and each statutory officer shall be paid bi-weekly by delivery of said check drawn on the municipal checking account. Payment shall be made by delivering said check personally or by mailing the check to the elected and statutory officers at their home.
3. Each member of the governing body, and authorized city employees, shall receive mileage and per diem for all trips approved by the governing body according to the policy and procedures adopted by the Moroni City Council (7/1/2001 Code)
4. **Benefits:** In addition to the salary paid the officers and employees of the City, they shall receive the following benefits:
 - a. The employees' share of the social security tax.
 - b. For all City employees, health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the City Council may from time to time establish by resolution.
 - c. Vacation and sick leave on such basis as the City Council may from time to time establish by resolution.
 - d. Participation in the Utah State Retirement Program on such basis and cost as the City Council may from time to time establish by resolution.
5. **Serving Two or More Positions:** Whenever any person serves in two (2) or more positions either as officers or employees of this City, unless otherwise specifically provided in the employment agreement, by ordinance or by resolution, that person shall receive the salary or compensation of the office or employment paying the greater amount.
6. **Reimbursement for Travel Expenses:** In addition to all other compensation or salaries, any officer or employee of the City may receive, following the submission to the City

Recorder/Clerk of a claim, travel expenses and per diem established by the Utah State Department of Finance for expense actually incurred by the person for attending any meeting, conference, seminar or training session, provided attendance shall have been approved by the City Council. (1982 Code § 3-818)

1-6-3: Bond Requirements

1. **Approval of Bonds:** The bonds of the Council members shall be approved by the Mayor and the bond of the Mayor shall be approved by the City Council at the first meeting of the City Council in January following a City election. (1982 Code § 3-822; amd. 2000 Code)
2. **Premium Paid by City:** The premium charged by a corporate surety for any bond required by the City shall be paid by the City. (1982 Code § 3-823; amd. 2000 Code)
3. **Additional Bonds:** The City Council may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers, except as otherwise provided by law, shall be filed with the City Recorder/Clerk, except that the bond of the City Recorder/Clerk shall be filed with the City Treasurer. (1982 Code § 3-825; amd. 2000 Code)
4. **Bond Amounts:** Before taking the oath of office and entering on the duties of their respective office, the following named City officials shall each give a bond with good and sufficient securities, payable to the City, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinances of the City, in the following amounts:

- | | |
|------------------------|------------|
| a. Mayor | \$1,000.00 |
| b. Council members | \$1,000.00 |
| c. City Treasurer | \$1,000.00 |
| d. City Recorder/Clerk | \$1,000.00 |

(1982 Code § 3-819A; amd. 2000 Code)

5. **City Treasurer's Bond:**
 - a. The City Treasurer's bond, or the bond of any person who acts as City Treasurer, may be set by resolution or ordinance in any amount, not less than that established by the State Money Management Council. (1982 Code § 3-821; amd. 2000 Code)
 - b. The City Treasurer's bond shall be superseded by any rules, regulation or directive of the State Money Management Council when such rule, regulation or directive is binding on the City. (1982 Code § 3-819B)

6. **Blanket Bond:** The bond required in this Section may be a blanket bond. (1982 Code § 3-819D)

1-6-4: Oaths

1. **Constitutional Oath of Office:** All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office. (1982 Code § 3-827; amd. 2000 Code)
2. **Filing:** The oath of office required under this Section shall be administered by any judge, notary public or by the City Recorder/Clerk. Elected officials shall take their oath of office at twelve o'clock (12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the City Recorder/Clerk. (1982 Code 3-828; amd. 2000 Code)
3. **Acts Of Officials Not Invalid:** No official act of any City officer shall be invalid for the reason that he failed to take the oath of office. (1982 Code § 3-829; amd. 2000 Code)

1-6-5: Official Neglect and Misconduct

In case any City officer shall at any time willfully omit to perform any duty, or willfully and corruptly be guilty of oppression, misconduct, misfeasance or malfeasance in office, the person is guilty of a Class A misdemeanor, shall be removed from office and is not eligible for any City office thereafter. (1982 Code § 3-826; amd. 2000 Code)

1-6-6: City Recorder/Clerk and City Treasurer

1. **Appointment:** On or before the first Monday in February following a City election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to each of the offices of City Recorder/Clerk and City Treasurer.
2. **Ex Officio Auditor:** The City Recorder/Clerk is ex officio City Auditor and shall perform the duties of that office. (1982 Code § 3-916; amd. 2000 Code)

1-6-7: City Attorney

The City Attorney may prosecute violations of City ordinances, and under State law, infractions and misdemeanors occurring within the boundaries of the City and has the same powers in respect to the violations as are exercised by a county attorney, including, but not limited to, granting immunity to witnesses. The City Attorney shall represent the interests of the State or the City in the appeal of any matter prosecuted in any trial court by the City Attorney. (1982 Code § 3-928; amd, 2000 Code)

1-6-8: City Justice Court Judge

In accordance with *Utah Code Annotated* 78-5-10 1.5 (4)(a) which provides that a municipality can elect to create a Class III Justice Court, Moroni City has appointed **Ivo Ray Peterson** as the Judge of the City's Justice Court as required by *Utah Code Annotated* 78-5-134 (3)(a). (5/9/2001 Code)

1-6-9: Private Work Prohibited

It shall be unlawful for any employee of the City to authorize or render services or City equipment for use on any private person's property and which is a benefit to such private person, including snow removal, sewer or water line repair or transporting garbage. (2000 Code)

1-6-10: Purchases and Encumbrances**1. Scope:**

- a. No purchases shall be made and no encumbrances shall be incurred for the benefit of the City except as provided in Sections 10-6-122, 10-6-123, 10-6-139 and 10-7-20 of the Utah Code, and as provided in this Chapter.
- b. No purchases shall be made and no encumbrances shall be incurred unless funds, sufficient to cover the purchase or encumbrance, have been budgeted and are available and the appropriate City officials, as provided herein, approve the purchase.
- c. Notwithstanding the provisions of paragraph (I), whenever any purchase or encumbrance is made with State or Federal funds and the applicable State or Federal law or regulations are in conflict with this Chapter to the extent that following the provisions of this Chapter would jeopardize the use of those or future State or Federal funds, such conflicting provisions of this Chapter shall not apply and the City shall follow the procedure required by the State or Federal Law or regulation.

2. **Definition of Department Director:** For the purpose of this chapter, "Department Director" shall mean the member of the City Council assigned to a particular department of the City, or the designee of the member of the City Council.
3. **Services:** All contracts for services shall be made as follows:
 - a. All contracts for services must be approved and signed by the Mayor.
 - b. In order to promote overall economy and the best use for the purposes intended, the City administration shall be responsible for assuring that all contract's for services awarded shall obtain the desired services for the lowest and best possible price.
4. **Performance Bond:** A performance bond in an amount as shall be reasonably necessary to protect the best interests of the City may be required. The form and amount of said bond shall be described in the notice inviting bids or soliciting price quotations. Additionally, if the City administration has good cause to believe performance may not be achieved, the Mayor may require an increase in the amount of the performance bond.
5. **Rejection of Bids or Solicited Price Quotations:** Any and all bids or price quotations may be rejected without cause and the City may re- invite bids or re-solicit price quotations as herein provided.
6. **Emergency Purchases:** The Mayor is authorized to make purchases of up to Ten Thousand Dollars (\$10,000.00) in emergency situations when the Mayor deems such purchases to be immediately necessary. The Mayor shall present written documentation and justification for any purchase made under this Section, to the City Council as soon as possible after the purchases have been made.
7. **Purchasing Coordinator:** The Department Directors shall serve as the purchasing coordinator to formalize purchasing procedures and to oversee the purchasing function. Purchasing procedures shall be presented in writing to all departments and shall be consistent with this Code.
8. **Single Source Purchases:** Purchases may be made from a single source without completing the bidding process when that source is deemed to be the only provider of a service or product and/or has special knowledge, which will be of unusual benefit to the City. Where the City has a need of materials or services that will be needed repeatedly over a given fiscal year, the City may return to a single source for such materials or services, provided the original bid provided for repeated purchases and provided that the costs under the original bid remain the same for the entire year.
9. **Pre-qualification of Bidders, Proponents, and Suppliers:** Where deemed appropriate by the City, bidders, proponents, and/or suppliers may be pre-qualified for particular types of supplies, services and construction. This is to determine the responsibility of such bidder, proponent or supplier.

- a. Standard of Responsibility: Factors to be considered in determining whether the standard of responsibility have been met by a bidder, proponent or supplier include:
 - i. Availability of the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability of the bidder, proponent or supplier to meet all contractual requirements
 - ii. History Performance
 - iii. Record of integrity
 - iv. Legal qualifications to contract with Moroni City: and
 - v. Whether all necessary information has been supplied in connection with the inquiry concerning responsibility.
 - vi. The bidder, proponent or supplier is a resident or has a permanent location in Moroni City.
 - b. Information Pertaining to Responsibility: The bidder, proponent, or supplier shall supply information requested by the City concerning the responsibility of such bidder, proponent or supplier. If such information is not provided the City may base the determination of responsibility upon any available information, or may determine the bidder, proponent or supplier not responsible if such failure as determined by the City is unreasonable.
10. **Filing of Contracts**: An original copy of all contracts and agreements, or documents operating to bind the city to make payment for materials, construction or other services shall be given to the City Recorder for filing. The City Recorder shall be the original repository for all such documents. (Ord. 5-14-2003)

Records Access and Management

Section

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1-7-1: Title

This Chapter is known as the **Moroni Government Records Access and Management Act**.
(Ord. 16-100, 1-27-1993)

1-7-2: Purpose; Intent

1. **Purpose:** In enacting this Chapter, the City recognizes two (2) fundamental constitutional rights:
 - a. The right of privacy in relation to personal data gathered by the City; and
 - b. The public's right of access to information concerning the conduct of the public's business.
2. **Intent:** It is the intent of the City to:
 - a. Establish fair information practices to prevent abuse of personal information by the City while protecting the public's right of easy and reasonable access to unrestricted public records;
 - b. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;
 - c. Establish and maintain an active, continuing program for the economical and efficient management of the City's records, as provided in this Chapter. (Ord. 16-1 00, 1-27-1 993)

1-7-3: Definitions

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

- **Audit:**

- A systematic examination of financial, management, program and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls or compliance with laws and regulations; or
- A systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.
- **Chronological Logs:** The regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency.
- **Classification, Classify (and their derivative forms):** Determining whether a record series, record or information is public, private, controlled or protected, or exempt from disclosure under Utah Code Annotated section 63-2-20 1 (3)(b).
- **Computer Program:** A series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not mean:
 - The original data, including numbers, text, voice, graphics and images;
 - Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
 - The mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.
- **Contractor:** Any person who contracts with the City to provide goods or services directly to the City or any private, nonprofit organization that receives funds from the City. Contractor does not mean a private provider.
- **Controlled Record:** A record containing data on individuals that is controlled as provided by Section 1-7-12 of this Chapter.
- **Designation, Designate (and their derivative forms):** Indicating, based on the City's familiarity with a record series or based on the City's review of a reasonable sample of a

record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

- **Gross Compensation:** Every form of remuneration payable for a given period to an individual for services provided, including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

- **Individual:** A human being.

- **Initial Contact Report:**
 - An initial written or recorded report, however: titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:
 - The date, time, location and nature of the complaint, the incident or offense;
 - Names of victims;
 - The nature or general scope of the agency's initial actions taken in response to the incident;
 - The general nature of any injuries or estimate of damages sustained in the incident;
 - The name, address and other identifying information about any person arrested or charged in connection with the incident;
 - The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

 - Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information as specified above of this definition appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected or exempt from disclosure under Utah Code Annotated section 63-3-20 1 (3)(b).

- **Person:** Any individual, nonprofit or for profit corporation, partnership, sole proprietorship or other type of business organization.
- **Private Provider:** Any person who contracts with the City to provide services directly to the public.
- **Private Record:** A record containing data on individuals that is classified private as provided by Section 1-7-11 of this Chapter.
- **Protected Record:** A record that is classified protected as provided by Section 1-7-13 of this Chapter.
- **Public Record:** A record that has not been appropriately classified private, controlled or protected as provided in Sections 1-7-11 through 1-7-13 of this Chapter.
- **Record:**
 - All books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording or other documentary materials and electronic data, regardless of physical form or characteristics, prepared, owned, used, received or retained by the City.
 - Record does not mean:
 - Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;
 - Materials that are legally owned by an individual in his private capacity;
 - Materials to which access is limited by the laws of copyright or patent, unless the copyright or patent is owned by the City;
 - Proprietary software;
 - Junk mail or commercial publications received by the City or an official or employee of the City;

- Books and other materials that are cataloged or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;
 - Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working;
 - "Computer programs", as defined herein, that are developed or purchased by or for the City for its own use;
 - Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of Pardons or a member of any other body charged by law with performing a quasi-judicial function.
- **Record Series:** A group of records that may be treated as a unit for purposes of designation, description, management or disposition.
 - **Records Officer:** The City Recorder/Clerk and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal and preservation of records.
 - **Summary Data:** Statistical records and compilations that contain data derived from private, controlled or protected information, but that do not disclose private, controlled or protected information. (Ord. 16-100, 1-27-1993; amd. 2000 Code)

1-7-4: Right of Public Access

1. **Authority:** Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to Section 1-7-6 of this Chapter.
2. **Public Records:** All records are public unless otherwise expressly provided by this Chapter or State or Federal law or regulation.
3. **Nonpublic:** The following records are not public:
 - a. Records that are appropriately classified private, controlled or protected as allowed by Sections 1-7-11 through 1-7-13 of this Chapter; and

- b. Records to which access is restricted pursuant to court rule, another State statute, Federal statute or Federal regulation, including records for which access is governed or restricted as a condition of participation in a State or Federal program or for receiving State or Federal funds.
- 4. **Private, Controlled or Protected:** Only those records specified in Sections 1-7-11 through 1-7-13 of this Chapter may be classified private, controlled or protected.
- 5. **Disclosure:**
 - a. The City may not disclose a record that is private, controlled or protected to any person except as provided below or in Section 1-7-5 of this Chapter.
 - b. The City may, at its discretion, disclose records that are private under subsection 1-7-11B or protected under Section 1-7-13 of this Chapter to persons other than those specified in this subsection E if the City Council, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.
- 6. **Limited Access:**
 - a. The disclosure of records to which access is governed or limited pursuant to court rule, another State statute, Federal statute or Federal regulation, including records for which access is governed or limited as a condition of participation in a State or Federal program or for receiving State or Federal funds, is governed by the specific provisions of that statute, rule or regulation.
 - b. This subsection applies to records described in subsection A of this Section insofar as this Chapter is not inconsistent with the statute rule, or regulation. (Ord. 16-100, 1-27-1993)
- 7. **Certified Copies:** The City shall provide a person with a certified copy of a record if the person:
 - a. Requesting the record has a right to inspect it; (Ord. 16-100, 1-27-1 993; amd. 2000 Code)
 - b. Identifies the record with reasonable specificity; and
 - c. Pays the lawful fees.

8. **Creating Records; Duplicating Requests:**

- a. The City is not required to create a record in response to a request.
- b. Nothing in this Chapter requires the City to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.
- c. Numerous Pages: If a person requests copies of more than fifty (50) pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the City may:
 - i. Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or
 - ii. Allow the requester to provide his own copying facilities and personnel to make the copies at the City offices, and waive the fees for copying the records.

9. **Intellectual Property Right:**

- a. If the City owns an intellectual property right and offers the intellectual property right for sale or license, the City may control by ordinance or policy the duplication and distribution of the material based on terms the City considers to be in the public interest.
- b. Nothing in this Chapter shall be construed to limit or impair the rights or protections granted to the City under Federal copyright or patent law as a result of its ownership of the intellectual property right.

10. **Form of Record not used for Denial:** The City may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of persons to inspect and receive copies of a record under this Chapter. (Ord. 16-100, 1-27-1993)

1-7-5: Access to Nonpublic Records

1. **Private Record:** Upon request, the City shall disclose a private record to:
 - a. The subject of the record;

- b. The parent or legal guardian of an un-emancipated minor who is the subject of the record
 - c. The legal guardian of a legally incapacitated individual who is the subject of the record;
 - d. Any other individual who:
 - i. Has a power of attorney from subject of the record; or
 - ii. Submits a notarized release from the subject of the record or his legal representative dated no later than ninety (90) days before the date the request is made; or
 - iii. Any person to whom the record must be provided pursuant to court order.
2. **Controlled Record:**
- a. Upon request, the City shall disclose a controlled record to:
 - i. A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than ninety (90) days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by the following subsection of this Section (ii); and
 - ii. Any person to whom a record must be disclosed pursuant to court order.
 - b. A person who receives a record from the City in accordance with the above subsection of this Section (2a) may not disclose controlled information from that record to any person, including the subject of the record.
3. **Segregation:** If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.
4. **Protected Record:** Upon request, the City shall disclose a protected record to:
- a. The person who submitted the information in the record;

- b. Any other individual who:
 - i. Has a power of attorney from all persons, governmental entities or political subdivisions whose interests were sought to be protected by the protected classification; or
 - ii. Submits a notarized release from their legal representatives dated no more than ninety (90) days prior to the date the request is made;
 - iii. Any person to whom a record must be provided pursuant to a court order.
5. **Governmental Entities:** The City may disclose a record classified private, controlled or protected to another governmental entity, city, another state, the United States or a foreign government only as provided by Utah Code Annotated section 63-2-206.
6. **Identification:** Before releasing a private, controlled or protected record, the City shall obtain evidence of the requester's identity.
7. **Court Order:** The City shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction; provided, that:
 - a. The record deals with a matter in controversy over which the court has jurisdiction;
 - b. The court has considered the merits of the request for access to the record;
 - c. The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private, controlled records, business confidentiality interests in the case of records protected under Utah Code Annotated sections 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;
 - d. To the extent the record is properly classified private, controlled or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and
 - e. Where access is restricted by a rule, statute or regulation referred to in subsection 1-7-4 3b of this Chapter, the court has authority independent of this Chapter to order disclosure.

8. Research:

- a. The City may disclose or authorize disclosure of private or controlled records for research purposes if the City:
 - i. Determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;
 - ii. Determines that the proposed research is bona fide and that the value of the research outweighs the infringement upon personal privacy;
 - iii. Requires the researcher to assure the integrity, confidentiality and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
 - iv. Prohibits the researcher from disclosing the record in individually identifiable form except as provided in subsection H2 of this Section, or from using the record for purposes other than the research approved by the City; and
 - v. Secures from the researcher a written statement of his understanding of an agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Utah Code Annotated section 63-2-801.
- b. A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator, except as provided by this subsection.
- c. The City may require indemnification as a condition of permitting research under this subsection.

9. Other Than Specified Persons:

- a. Under subsections 1-7-4 5b and 1-7-18 4 of this Chapter, the City may disclose records that are private under Section 1-7-11 or protected under Section 1-7-13 to persons other than those specified in this Section.

- b. Under Section 1-7-18 of this Chapter, the City Council may require the disclosure of records that are private under Section 1-7-11, controlled under Section 1-7-12 or protected under Section 1-7-13 of this Chapter to persons other than those specified in this Section.
- c. Under Utah Code Annotated section 63-2-404(8), the court may require the disclosure of records that are private under Section 1-7-11, controlled under Section 1-7-12 or protected under Section 1-7-13 of this Chapter to persons other than those specified in this Section. (Ord. 16-100, 1-27-1993)

1-7-6: Fees

1. **Authority:** The City may charge a reasonable fee to cover the City's actual cost of duplicating a record or compiling a record in a form other than that maintained by the City. The fees may be set by resolution. The initial fee, until changed by resolution, is as set forth in Exhibit A, which is attached to the Ordinance codified herein, and is on file in the office of the Records Officer. (Ord. 16-100, 1-27-1993; amd. 2000 Code)
2. **Exceptions:**
 - a. The City may fulfill a record request without charge when it determines that:
 - i. Releasing the record primarily benefits the public rather than a person;
 - ii. The individual requesting the record is the subject of the record; or
 - iii. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious
 - b. The City may not charge a fee for:
 - i. Reviewing a record to determine whether it is subject to disclosure; or
 - ii. Inspecting a record. (Ord. 16-1 00, 1-27-1 993)

1-7-7: Retention of Records

The City shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit B, which is attached to the Ordinance codified herein, and is on file in the office of the Records Officer. (Ord. 16-1 00, 1-27-1 993; amd. 2000 Code)

1-7-8: Access Requests; Procedure

1. **Request:** A person making a request for a record shall furnish the City with a written request containing his name, mailing address, daytime telephone number, if available, and a description of the records requested that identifies the record with reasonable specificity.
2. **Response of City:** As soon as reasonably possible, but no later than ten (10) business days after receiving written request, or five (5) business days after receiving a written request, if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the City shall respond to the request by:
 - a. Approving the request and providing the record;
 - b. Denying the request;
 - c. Notifying the requester that it does not maintain the record and providing, if known, the name and address of where the record can be found; or
 - d. Notifying the requester that because of one of the extraordinary circumstances listed in subsection D of this Section, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.
3. **Publication or Broadcast:** Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.
4. **Extraordinary Circumstances:** The following circumstances constitute “extraordinary circumstances” that allow the City to delay approval or denial by an additional period of time as specified in subsection 5 of this Section if the City determines that due to the extraordinary circumstances, it cannot respond within the time limits provided in subsection 2 of this Section:
 - a. Another governmental entity is using the record, in which case the City shall promptly request that the governmental entity currently in possession return the record;
 - b. Another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;

- c. The request is for a voluminous quantity of records;
 - d. The City is currently processing a large number of records requests;
 - e. The request requires the City to review a large number of records to locate the records requested;
 - f. The decision to release a record involves legal issues that require the City to seek legal counsel for the analysis of statutes, rules, ordinances, regulations or case law;
 - g. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or
 - h. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.
5. **Time Limits for Extraordinary Circumstances:** If one of the extraordinary circumstances listed in subsection 4 of this Section precludes approval or denial within the time specified in subsection 2 of this Section, the following time limits apply to the extraordinary circumstances:
- a. For claims under subsection 4a of this Section, the governmental entity currently in possession of the record shall return the record to the originating entity within five (5) business days of the request for the return unless returning the record would impair the holder's work.
 - b. For claims under subsection 4b of this Section, the originating city shall notify the requester where the record is available for inspection and copying;
 - c. For claims under subsections 4c through 4e of this Section, the City shall:
 - i. Disclose the records that it has located which the requester is entitled to inspect;
 - ii. Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and

- iii. Complete the work and disclose those records that requester is entitled to inspect as soon as reasonably possible.
 - d. For delays under subsection 4f of this Section, the City shall either approve or deny the request within five (5) business days after the response time specified for the original request has expired;
 - e. For delays under subsection 4g of this Section, the City shall fulfill the request within fifteen (15) business days from the date of the original request; or
 - f. For delays under subsection 4h of this Section, the City shall complete its programming and disclose the requested records as soon as reasonably possible.
6. **Failure to Provide:** If the City fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records. (Ord. 16-100, 1-27-1993)

1-7-9: Classification; Designation

1. **Designation:** The City shall:
 - a. Evaluate all record series that it uses or creates;
 - b. Designate those record series as provided by this Chapter;
 - c. Report the designation of its record series to the State Archives.
2. **Classification:** The City may classify a particular record, record series or information within a record at any time, but is not required to classify a particular record, record series or information until access of the record is requested.
3. **Re-Designation:** The City may re-designate a record series or reclassify a record or record series, or information within a record at any time. (Ord. 16-1 00, 1-27-1 993)

1-7-10: Public Records

1. **Specified:** The following records are public:
 - a. Laws and ordinances;
 - b. Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period,

dates of employment, and relevant education, previous employment, and similar job qualifications of the City's former and present employees and officers, excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

- c. Final opinions, including concurring and dissenting opinions, and orders that are made by the City in an administrative, adjudicative or judicial proceeding, except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, protected or controlled;
- d. Final interpretation of statutes or rules by the City unless classified as protected as provided in subsections 1-7-130 through 17 of this Chapter;
- e. Information contained in or compiled from a transcript, minutes or report of the open portion of a meeting of the City, including the records of all votes of each member of the City Council;
- f. Judicial records, unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this Chapter;
- g. Records filed with or maintained by county recorders, clerks, treasurer, surveyors, zoning commissions of the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, the Division of Water Rights, or other governmental entities that give public notice of:
 - i. Titles or encumbrances to real property;
 - ii. Restrictions, on the use of real property;
 - iii. The capacity of persons to take or convey title to real property; or
 - iv. Tax status for real and personal property.
- h. Records of the Department of Commerce that evidence incorporations, mergers, name changes and Uniform Commercial Code filings;

- i. Data on individuals that would otherwise be private under this Chapter if the individual who is the subject of the record has given the City written permission to make the records available to the public;
 - j. Documentation of the compensation that the City pays to a contractor or private provider; and
 - k. Summary data.
2. **Restricted Access; Conditions:** The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under subsection 1-7-4 3b or Sections 1-7-11 through 1-7-13 of this Chapter:
- a. Administrative staff manuals, instructions to staff and statements of policy;
 - b. Records documenting a contractor's or private provider's compliance with the terms of a contract with the City;
 - c. Records documenting the services provided by a contractor or private provider to the extent the records would be public if prepared by the City;
 - d. Contracts entered into by the City;
 - e. Any account, voucher or contract that deals with the receipt or expenditure of funds by the City;
 - f. Records relating to governmental assistance or incentives publicly disclosed, contracted for or given by the City encouraging a person to expand or relocate a business in Utah, except as provided in Utah Code Annotated section 63-2-304(34);
 - g. Chronological logs and initial contact reports;
 - h. Correspondence by and with the City in which the City determines or states an opinion upon the rights of the State, political subdivision, the public or any person;
 - i. Empirical data contained in drafts if:

- i. The empirical data is not reasonably available to the requester elsewhere in similar form; and
 - ii. The City is given a reasonable opportunity to correct any errors or make non-substantive changes before release.
- j. Drafts that are circulated to anyone other than the City, State or Federal agency if the City, State or Federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
- k. Drafts that have never been finalized but were relied upon by the City in carrying out action or policy;
- l. Original data in a computer program if the City chooses not to disclose the program;
- m. Arrest warrants after issuance, except that for good cause, a court may order restricted access to arrest warrants prior to service;
- n. Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- o. Records that would disclose information relating to formal charges or disciplinary actions against a past or present City employee if:
 - i. The disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - ii. The formal charges were sustained.
- p. Records maintained by the Division of State Lands and Forestry or the Division of Oil, Gas and Mining that evidence mineral production on government lands;
- q. Final audit reports;
- r. Occupational and professional licenses;
- s. Business licenses; and

- t. A notice of violation, a notice of agency action under Utah Code Annotated section 63-46b-3, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the City, but not including records that initiate employee discipline.
3. **List Not Exhaustive:** A list of pub records in this Section Is not exhaustive and should not be used to limit access to record (Ord.16-100, 1-27-1993)

1-7-11: Private Records

1. **Specified:** The following records are private:
 - a. Records concerning an individual's eligibility for unemployment Insurance benefits, social services, welfare benefits or the determination of benefit levels;
 - b. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data
 - c. Records of publicly-funded libraries that, when examined alone or with other records, Identify a patron;
 - d. Records received or generated In a Senate or House Ethics Committee concerning any alleged violation of the rules on legislative ethics If the Ethics Committee meeting was closed to the public; and
 - e. Records concerning a current or former employee of, or applicant for employment with, the City that would disclose the Individual's home address, home telephone number, social security number, Insurance coverage, marital status or payroll deductions.
2. **Properly Classified:** The following, records are private if properly classified by the City:
 - a. Records concerning a current or former employee of or applicant for employment with, the City Including performance evaluations and personal status Information such as race, religion or disabilities, but not Including records that are public under subsections 1-7-10 1b and 1-7-10 2o of this Chapter or private under subsection 1e of this Section.
 - b. Records describing an individual's finances, except that the following are public:
 - i. Records described in subsection 1-7-10 1 of this Chapter;

- ii. Information provided to the City for the purpose of complying with a financial assurance requirement; or
 - iii. Records that must be disclosed in accordance with another statute.
- c. Records of independent State agencies if the disclosure of the records would conflict with fiduciary obligations of the agency;
 - d. Other records containing data on individuals, the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
 - e. Records provided by the United States or by a governmental entity outside the State that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it. (Ord. 16-1 00, 1-27-1 993)

1-7-12: Controlled Records

A record is controlled only if:

1. The record contains medical, psychiatric or psychological data about an individual;
2. The City reasonably believes that:
 - a. Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
 - b. Releasing the information would constitute a violation of normal professional practice and medical ethics; and
 - c. The City has properly classified the record. (Ord. 16-100,1 -27-1993)

1-7-13: Protected Records

The following records are protected if properly classified by the City:

1. Trade secrets as defined in Utah Code Annotated section 13a24 if the person submitting the trade secret has provided the City with the information specified in Utah Code Annotated section 63-2-308.
2. Commercial Information or non-individual financial information obtained from a person if:

- a. Disclosure of the Information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the City to obtain necessary information in the future;
 - b. The person submitting the information has a greater Interest In prohibiting access than the public In obtaining access; and
 - c. The person submitting the Information has provided the City with the Information specified in Utah Code Annotated section 63-2-308.
3. Commercial or financial Information acquired or prepared by the City to the extent that a disclosure would lead to financial speculations in currencies, securities or commodities that will interfere with a planned transaction by the City or cause substantial financial injury to the City or cause substantial financial injury to the City or State economy;
4. Test questions and answers to be used in future license, certification, employment or academic examination;
5. Records, the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter Into a contract or agreement with the City, except that this subsection does not restrict the right of a person to see bids submitted to or by the City after bidding has closed;
6. Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
 - a. Public interest in obtaining access to the information outweighs the City's need to acquire the property on the best terms possible;
 - b. The Information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
 - c. In the case of records that would identify property, potential sellers of the property described have already learned of the City's plans to acquire the property;
 - d. In the case of records that would identify the appraised or estimated value of property, the potential sellers have already learned of the City's estimated value of the property.

7. Records prepared in contemplation of sale, exchange, lease, rental or other compensated transaction of real or personal property, including intellectual property which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
 - a. The public interest in access outweighs the interests in restricting access, including the City's interest in maximizing the financial benefit of the transaction; or
 - b. When prepared by or on behalf of the City, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty or confidentiality to the City.
8. Records created or maintained for civil, criminal or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification or registration purposes if release of the records:
 - a. Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes;
 - b. Reasonably could be expected to interfere with audits, disciplinary or enforcement proceedings;
 - c. Would create a danger of depriving a person of a right to a fair trial or impartial hearing;
 - d. Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
 - e. Reasonably could be expected to disclose investigative or audit techniques, procedures, policies or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts.
9. Records, the disclosure of which would jeopardize the life or safety of an individual;

10. Records, the disclosure of which would jeopardize the security of governmental property, governmental programs or governmental record-keeping systems from damage, theft or other appropriation or use contrary to law or public policy;
11. Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;
12. Records that, if disclosed, would reveal recommendations made to the Board of Pardons by an employee of or contractor for the Department of Corrections, the Board of Pardons or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis or treatment of any person within the Board's jurisdiction;
13. Records and audit work papers that identify audit, collection and operational procedures and methods used by the Utah State Tax Commission if disclosure would interfere with audits or collections;
14. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
15. Records prepared by or on behalf of the City solely in anticipation of litigation that are not available under the rules of discovery;
16. Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the City concerning litigation;
17. Records of communications between the City and an attorney representing, retained or employed by the City if the communications would be privileged as provided in Utah Code Annotated section 78-24-8;
18. Drafts, unless otherwise classified as public;
19. Records concerning the City's strategy about collective bargaining or pending litigation;
20. Records of investigations of loss occurrences and analyses of loss occurrences;
21. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

22. Records that reveal the location of historic, prehistoric, paleontological or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational or cultural information;
23. Records of independent State agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;
24. Records provided by the United States or by a government entity outside the State that are given to the City with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;
25. Transcripts, minutes or reports of the closed portion of a meeting of a public body, except as provided in Utah Code Annotated section 52-4-7, Open and Public Meetings Act;
26. Records that would reveal the contents of settlement negotiations, but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;
27. Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons or a member of any other body charged by law with performing a quasi-judicial function;
28. Records that would reveal negotiations regarding assistance or incentives offered by or requested from the City for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the City at a competitive disadvantage, but this subsection may not be used to restrict access to a record evidencing a final contract; and
29. Materials to which access must be limited for purposes of securing or maintaining the City's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets. (Ord. 16-100, 1-27-1993)

1-7-14: Segregation of Records

Notwithstanding any other provision in this Chapter, if the City receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this Chapter, and, if the information the requester is entitled to inspect is intelligible, the City:

1. **Allow Access:** Shall allow access to information in the record that the requester is entitled to inspect under this Chapter; and
2. **Deny Access:** May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial. (Ord. 16-100, 1-27-1993)

1-7-15: Data Maintained on Individuals; Rights

1. **File With State Archivist:**
 - a. The City shall file with the State Archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by the City.
 - b. That statement is a public record.
2. **Explanation To Individual:** Upon request, the City shall explain to an individual:
 - a. The reasons the individual is asked to furnish to the City information that could be classified private or controlled
 - b. The intended uses of the information; and
 - c. The consequences for refusing to provide the information.
3. **Uses:** The City may not use private or controlled records for purposes other than those given in the statement filed with the State Archivist under subsection A of this Section or for purposes other than those for which another governmental entity could use the record under Utah Code Annotated section 63-2-206. (Ord. 16-100, 1 -27-1 993)

1-7-16: Amendments and Changes to Records

1. **Request; Information:**
 - a. Subject to subsection 7 of this Section, an individual may contest the accuracy or completeness of any public, private or protected record concerning him by requesting the City to amend the record. However, this Section does not affect the right of access to private or protected records.
 - b. The request shall contain the following information:
 - i. The requester's name, mailing address and daytime telephone number; and

- ii. A brief statement explaining why the City should amend the record.
2. **Order; Time Limit:** The City shall issue an order either approving or denying the request to amend no later than thirty (30) days after receipt of the request.
3. **Approval:** If the City approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. The City may not disclose the record until it has amended it.
4. **Denial:** If the City denies the request, it shall:
 - a. Inform the requester in writing; and
 - b. Provide a brief statement giving its reasons for denying the request.
5. **Statement Contesting Information:**
 - a. If the City denies a request to amend a record, the requester may submit a written statement contesting the information in the record.
 - b. The City shall:
 - i. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
 - ii. Disclose the requester's statement along with the information in the record whenever the City discloses the disputed information.
6. **Appeal:** The requester may appeal the denial of the request to amend a record pursuant to Section 1-7-18 of this Chapter.
7. **Exception:** This Section does not apply to records relating to title to real or personal property, medical records, judicial case files or any other records that the City determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system. (Ord. 16-1 00, 1-27-1993)

1-7-17: Denial of Request

1. **Notice:** If the City denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to requester's address.
2. **Contents of Notice:** The notice of denial shall contain the following information:
 - a. A description of the record or portions of the record to which access was denied; provided, that the description does not disclose private, controlled or protected information or records to which access is restricted pursuant to court rule, another State statute, Federal statute or Federal regulation, including records for which access is governed or restricted as a condition of participation in a State or Federal program or for receiving State or Federal funds;
 - b. Citations to the provisions of this Chapter, another State statute, Federal statute, court rule or order or Federal regulation that exempt the record or portions of the record from disclosure; provided, that the citations do not disclose private, controlled or protected information;
 - c. Statement that the requester has the right to appeal the denial to the City Council; and
 - d. A brief summary of the appeals process and the time limits for filing an appeal.
3. **Preservation of Record:** Unless otherwise required by a court or agency of competent jurisdiction, the City may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal. (Ord. 16-1 00, 1-27-1 993)

1-7-18: Appeal Procedure

1. **Aggrieved Party:**
 - a. Any person aggrieved by the City's access determination under this Chapter, including a person not a party to the City's proceeding, may appeal the determination first to the Mayor and then to the City Council by filing a notice of appeal. (Ord. 16-100, 1-27-1993; amd. 2000 Code)
 - b. If the City claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the City's claim of extraordinary circumstances or date for

compliance within thirty (30) days after notification of a claim of extraordinary circumstances by the City, despite the lack of a “determination” or its equivalent,

2. Claims of Business Confidentiality:

- a. If the appeal involves a record that is the subject of a business confidentiality claim under Utah Code Annotated section 63-2-308 or this Chapter, the City Recorder/Clerk shall:
 - i. Send notice of the requester’s appeal to the business confidentiality claimant within three (3) business days after receiving notice, except that if notice under this Section must be given to more than thirty five (35) persons, it shall be given as soon as reasonably possible;
 - ii. Send notice of the business confidentiality claim and a schedule for the City Recorder/Clerk’s determination to the requester within three (3) business days after receiving notice of the requester’s appeal.
- b. The claimant shall have seven (7) business days after notice is sent by the City Recorder/Clerk to submit further support for the claim of business confidentiality.

3. Determination by Mayor:

- a. The Mayor shall make a determination on any appeal within the following period of time:
 - i. Within five (5) business days after the Mayor’s receipt of the notice of appeal; or
 - ii. Within twelve (12) business days after the City sends the requester’s notice of appeal to a person who submitted a claim of business confidentiality.
- b. If the Mayor fails to make a determination within the time specified in subsection 3a of this Section, the failure shall be considered the equivalent of an order denying the appeal.
- c. The provisions of this Section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this Section.

4. **Order of Disclosure:** The Mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under subsection 1-7-11 2 or protected under Section 1-7-13 of this Chapter if the interests favoring access outweigh the interest favoring restriction of access.
5. **Notice of Determination:** The City shall send written notice of the determination of the Mayor to all participants. If the Mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the City Council, and the time limits for filing an appeal.
6. **Duties of Mayor Delegated:** The duties of the Mayor under this Section may be delegated.
7. **City Council Appeal; Time Limit:** The notice of appeal to the City Council must be filed with the City Recorder/Clerk no later than thirty (30) days after the Mayor has denied the appeal or fails to make a determination within the time specified in subsection 3a of this Section.
8. **Information Required:** The notice of appeal shall contain the following information:
 - a. The petitioner's name, mailing address and daytime telephone number; and
 - b. The relief sought.
9. **Statement of Facts:** The petitioner may file a short statement of facts, reasons and legal authority in support of the appeal.
10. **Hearing:** No later than three (3) days after receiving a notice of appeal, the City Recorder/Clerk shall:
 - a. Schedule a hearing for the City Council to discuss the appeal, which shall be held no sooner than fifteen (15) days and no later than thirty (30) days from the date of the filing of the appeal;
 - b. At the hearing, the City Council shall allow the parties to testify present evidence and comment on the issues, The City Council may allow other interested persons to comment on the issues. (Ord.16-100, 1-27-1993)

- c. No later than three (3) business days after the hearing, the City Council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the Mayor in whole or in part. (Ord. 16-100, 1-27-1993; amd. 2000 Code)
- d. The order of the City shall include:
 - i. A statement of reasons for the decision, including citations to this Chapter or Federal regulation that governs disclosure of the record; provided, that the citations do not disclose private, controlled or protected information;
 - ii. A description of the record or portions of the record to which access was ordered or denied; provided, that the description does not disclose private, controlled or protected information;
 - iii. A statement that any party to the appeal may appeal the City's decision to District Court; and
 - iv. A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

11. Classification Or Designation Appeal: A person aggrieved by the City's classification or designation determination under this Chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this Section. If a non-requestor is the only appellant, the procedures provided in this Section shall apply, except that the determination on the appeal shall be made within thirty (30) days after receiving the notice of appeal. (Ord. 16-1 00, 1-27-1 993)

1-7-19: Confidential Treatment; No Applicable Exemption

1. **Court Order:** A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:
 - a. There are compelling interests favoring restriction of access to the record; and
 - b. The interests favoring restriction of access clearly outweigh the interests favoring access.
2. **City Request Access; Attorney Fees:** If the City requests a court to restrict access to a record under this Section, the court shall require the City to pay the reasonable attorney fees incurred by the lead party in opposing the City's request, if:

- a. The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
 - b. The court denies confidential treatment under this Section.
3. **Exception:** This Section does not apply to records that are specifically required to be public under Section 1-7-10 of this Chapter or Utah Code Annotated section 63-2-301, except as provided in subsection D of this Section.
4. **Limited Access:**

- a. Access to drafts and empirical data in drafts may be limited under this Section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.
- b. Access to original data in a computer program may be limited under this Section, but the court may consider, in its evaluation of interest favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program. (Ord. 16-1 00, 1-27-1993)

1-7-20: Judicial Review

Any party to a proceeding before the City Council may petition for judicial review by the District Court of the City Council's order. The petition shall be filed no later than thirty (30) days after the date of the City Council's order. (Ord. 16-100, 1-27-1993)

1-7-21: Criminal Penalties

1. Intentional Disclosure; Defenses To Prosecution:
 - a. A public employee or other person who has lawful access to any private, controlled or protected record under this Chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a Class B misdemeanor and subject to penalty as provided in Section 1-4-1 of this Title.
 - b. It is a defense to prosecution under subsection 1a of this Section that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office or misappropriation of public funds or property.

- c. It is a defense to prosecution under subsection 1a of this Section that the record could have been released to the recipient if it had been properly classified.

2. False Pretenses, Bribery or Theft:

- a. A person who by false pretenses, bribery or theft, gains access to or obtains a copy of any private, controlled or protected record to which he is not legally entitled is guilty of a Class B misdemeanor and subject to penalty as provided in Section 1-4-1 of this Title.
- b. No person shall be guilty under subsection 2a of this Section who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.
- c. **Intentional Refusal to Release:** A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law or by final un-appealed order from the City or a court, is guilty of a Class B misdemeanor and subject to penalty as provided in Section 1-4-1 of this Title. (Ord. 16-100, 1-27-1993; amd. 2000 Code)