



# Sandy City, Utah

10000 Centennial Parkway  
Sandy, UT 84070  
Phone: 801-568-7141

## Meeting Agenda

### City Council

*Brooke Christensen, District 1*  
*Maren Barker, District 2*  
*Kristin Coleman-Nicholl, District 3*  
*Chris McCandless, District 4*  
*Steve Fairbanks, At-large*  
*Linda Martinez Saville, At-large*  
*Zach Robinson, At-large*

---

**Tuesday, September 4, 2018**

**5:15 PM**

**Council Chambers**

---

Web address to view complete packet: <http://sandyutah.legistar.com>

The Sandy City Council has adopted Rules of Procedure which are available at the rear of the Council Chambers and online at: <https://sandy.utah.gov/government/city-council/procedure-guidelines>. Public comment will be taken on all voting items. Each speaker is allowed one minute per voting item, except for noticed Public Hearings in which case each speaker is allowed three minutes. The Citizen Comment sections of the meeting are for issues not listed on the agenda. Each speaker is allowed three minutes to address the Council during Citizen Comments. If a citizen is unable to attend a meeting in person, he or she may provide written comments to the City Council Executive Director by 3:00 PM the day of the Council Meeting to have those comments distributed to the City Council and have them read into the record at the appropriate time.

In compliance with the Americans with Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (801) 568-7141.

#### **4:30 Dinner**

#### **5:15 Council Meeting**

#### **Roll Call**

#### **Non-voting Items**

Agenda Planning Calendar Review

Council Member Business

Council Office Director's Report

Mayor's Report

CAO Report

Legislative Report

## Citizen Comments

### Voting Items

#### Consent Calendar

1. [18-328](#) Approval of the August 21, 2018 Minutes.

Attachments: [August 21, 2018 Minutes](#)

2. [18-321](#) Approval of the August 28, 2018 Minutes.

Attachments: [August 28, 2018 Minutes](#)

#### Council Items

3. [18-327](#) Council Member Robinson recommending the City adopt Resolution 18-46C on climate change.

Attachments: [Resolution 18-46C](#)

4. [18-325](#) Council Member Christensen recommending the Council adopt "A Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to Serve on Special Committees"

Attachments: [Resolution 18-40C](#)

5. [18-324](#) City Council Office recommending the City Council adopt ordinance 18-25 amending title 22 of the Revised Ordinances of Sandy City by adding a section to regulate special committees

Attachments: [Ordinance 18-25](#)

6. [18-322](#) Council Member Christensen recommending that the Council make appointments to the Community Development Block Grant (CDBG) Committee

Attachments: [Greg Wilson](#)

[Nate Nichol](#)

7. [18-323](#) Council Member Christensen recommending that the Council make appointments to the Historic Committee

Attachments: [Sheldon Wayne](#)

[Terry Parkin](#)

[Sean Kowallis](#)

8. [18-320](#) Council Member Nicholl recommending amendment to Title 6, Sandy City Administrative Code pertaining to Council-Mayor Relationships.

Attachments: [Ordinance 18-24.docx](#)

9. [18-318](#) Council Office proposing a position reclassification.  
**Attachments:** [Draft Senior Management Analyst- City Council.pdf](#)
10. [18-326](#) Council Member Nicholl recommending an amendment to the Sandy City Purchasing Code clarifying the City Council's contracting authority.  
**Attachments:** [Title 11 - Council Contracting Authority Proposed Amendment.docx](#)

## **7:00 Time Certain Items and Public Hearings**

Prayer / Pledge of Allegiance

## **Citizen Comments**

## **Adjournment**



## Staff Report

---

**File #:** 18-328, **Version:** 1

**Date:** 9/4/2018

---

Approval of the August 21, 2018 Minutes.

Motion to approve the minutes as presented.



# Sandy City, Utah

10000 Centennial Parkway  
Sandy, UT 84070  
Phone: 801-568-7141

## Meeting Minutes

### City Council

*Brooke Christensen, District 1*  
*Maren Barker, District 2*  
*Kristin Coleman-Nicholl, District 3*  
*Chris McCandless, District 4*  
*Steve Fairbanks, At-large*  
*Linda Martinez Saville, At-large*  
*Zach Robinson, At-large*

---

Tuesday, August 21, 2018

5:15 PM

Council Chambers

---

### 5:15 Council Meeting

#### Roll Call

Council Office Director Michael Applegarth  
Council Office Analyst Dustin Fratto

#### **Administration:**

Mayor Kurt Bradburn  
CAO Matthew Huish  
Deputy to the Mayor Evelyn Everton  
Assistant CAO Shane Pace  
Assistant CAO Korban Lee  
City Attorney Bob Thompson  
Economic Development Director Nick Duerksen  
Community Development Director James Sorensen  
Assistant Director Community Development Jared Gerber  
Zoning Administrator Mike Wilcox  
Business Licience Administrator Leslie Casaril  
Administrative Services Director Brian Kelley  
Parks & Recreation Director Scott Earl  
Fire Chief Bruce Cline  
Police Chief William O'Neal  
Public Utilities Director Tom Ward  
Public Works Director Mike Gladbach

**Present:** 7 - Council Member Brooke Christensen  
Council Member Maren Barker  
Council Member Kristin Coleman-Nicholl  
Council Member Chris McCandless  
Council Member Steve Fairbanks  
Council Member Zach Robinson  
Council Member Linda Martinez Saville

Per Utah Code Annotated 52-4-207 and City Council policy, Council Member Nicholl may be participating in the August 21, 2018 City Council meeting via telephone and/or video conference.

Kris Coleman Nicholl was in attendance at the meeting.

## Non-voting Items

### Agenda Planning Calendar Review

Mike Applegarth reviewed items on the Agenda Calendar.

### Council Member Business

Zach Robinson expressed appreciation to Evelyn Everton for the Legislative Interim update.

Chris McCandless expressed appreciation to all who worked to make the Run Elevated Race a success.

Brooke Christensen spoke regarding an invitation to an event sponsored by The Sandy Chamber of Commerce.

Kris Nicholl requested that an item be placed on the agenda for Council discussion regarding an e-mail from a Sandy City Employee.

### Council Office Director's Report

Mike Applegarth will be working with Jamie Jacobson on a program for the Youth City Council.

Steve Fairbanks, who has been the liaison to the Youth City Council, would like to be a part of the discussions.

Mr. Applegarth reported that a floral arraignment was sent to Chief Matt Burchett's family on behalf of The Sandy City Council.

Mr. Applegarth reported that this week marks his 4th anniversary working with the City Council. He thanked the Council and stated that it has been a pleasure working here.

### Mayor's Report

Mayor Bradburn spoke regarding the breakdown in communication between the Administration and City Council, and expressed his sorrow and apologies to the Council.

Steve Fairbanks accepted and appreciated the Mayor's apology on behalf of the Council.

### CAO Report

Matt Huish spoke regarding moral in the City, and informed the Council on the progress for implementation of an annual employee satisfaction survey.

Evelyn Everton presented a brief update on the Administration's outreach to help agencies who are interested in growth in the community to better understand the vision of the Cairns District. She invited the City Council to attend a gathering with Local Legislators on August 31, 2018 from 12:00 -2:00 p.m.

### Economic Development Update

Nick Duerksen presented an update on properties, businesses, developments, and the

Shops at South Towne development plan.

## Citizen Comments

There were no comments.

## Voting Items

### Consent Calendar

1. [18-306](#) Approval of the August 14, 2018 Minutes.

**Attachments:** [August 14, 2018 Minutes](#)

No citizen comments offered.

**Kris Coleman Nicholl made a motion seconded by Zach Robinson to approve the Consent Calendar consisting of the August 14, 2018 Minutes. The motion carried by a unanimous all in favor voice vote.**

### Council Items

2. [18-313](#) Possible Closed Session to discuss the purchase, exchange or lease of real property.

Meeting went into Recess

Meeting Reconvened

**A motion was made by Kristin Coleman-Nicholl, seconded by Brooke Christensen, to recess City Council and convene into Closed Session to discuss the purchase, exchange or lease of real property... The motion carried by the following vote:**

**Yes:** 7 - Brooke Christensen  
Maren Barker  
Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

3. [18-308](#) Council Member Robinson requesting the Council consider the creation of a Communications and Public Engagement Coordinator within the City Council Office.

**Attachments:** [Draft Communications Position- City Council.docx](#)

Zach Robinson introduced his item for the creation of a Communications and Public Engagement Coordinator within the City Council Office.

Council questions and discussion followed.

**A motion was made by Kristin Coleman-Nicholl, seconded by Linda Martinez Saville, to direct further development of City Council Communications and Public Engagement Coordinator position specifications and funding plan... The motion**

**carried by the following vote:**

**Yes:** 5 - Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

**No:** 2 - Brooke Christensen  
Maren Barker

4. [18-312](#) Council Member Nicholl recommending amendment to Title 6, Sandy City Administrative Code pertaining to Council-Mayor Relationships.

**Attachments:** [Memo to Council.docx](#)  
[Title 6 - Council Information Amendment.docx](#)

Kris Nicholl introduced amendments to Title 6 pertaining to Council-Mayor relationships.

Comments from Council members and Mayor Bradburn followed.

**A motion was made by Zach Robinson, seconded by Chris McCandless, to approve the further development of an amendment to the Sandy City Administrative Code as discussed... The motion carried by the following vote:**

**Yes:** 6 - Brooke Christensen  
Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

**No:** 1 - Maren Barker

Meeting went into Recess

Meeting Reconvened

## 7:00 Time Certain Items and Public Hearings

### Prayer / Pledge of Allegiance

Chairman Steve Fairbanks welcomed all those in attendance.

Council Member Chris McCandless offered the opening prayer.

Council Member Zach Robinson led the audience in the pledge.

### Citizen Comments

There were no comments.

### Time Certain Items and Public Hearings



5. [18-289](#) 2018 JAG Public Hearing

Police Chief Bill O'Neal reported that this year's Police Department Justice Assistance Grant will be used to purchase new radios for the department.

The Public Hearing was opened then closed as there were no comments. No formal motion was required.

6. [CODE-06-18-5446-CC](#) Alcohol and Tobacco Specialty Store Update - Amend Title 15A, Chapter 8, Permitted Land Use Matrix by the Commercial, Office, Industrial, Mixed Use, Transit Corridor, and Research and Development Districts, & Chapter 37, Definitions, Revised Ordinances of Sandy City, 2008

**Attachments:** [Staff Report.pdf](#)  
[Exhibit A.pdf](#)  
[Exhibit B.pdf](#)  
[18-22.pdf](#)  
[Executed Copy 18-22](#)  
[Exhibit A - Final](#)

Mike Wilcox introduced the update to the Alcohol and Tobacco Specialty Store Code Amendment which would amend regulations based on recent code amendments on the State level.

Chairman Fairbanks opened the Public Hearing.

Steve Van Maren mentioned a copy of an e-mail he sent with wording suggestions for this item.

Citizen Comments was closed.

Council discussion followed.

**A motion was made by Chris McCandless, seconded by Linda Martinez Saville, to adopt Ordinance #18-22, amending Title 15A of the revised ordinances of Sandy City, Chapter 37 "Definitions" and Chapter 8, "Land Uses in the Commercial Office Industrial Mixed Use Transit Corridor in Research and Development Land Use Districts", by modifying the land use tables adding some terms related to Alcohol and Tobacco and Retail Tobacco Specialty Stores providing a saving clause and effective date for the ordinance ... The motion carried by the following vote:**

**Yes:** 7 - Brooke Christensen  
Maren Barker  
Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

7. [CODE-06-18-5441-CC](#) Residential Short Term Rentals (STRs) - Amend Title 15A, Chapter 11, Special Uses, Chapters 7, 8, 9, & 10, Permitted Land Use Matrices for

Residential, Commercial, Office, Industrial, Mixed Use, Transit Corridor, Research and Development, Institutional Care, and Open Space Districts, & Chapter 37, Definitions, Land Development Code, Revised Ordinances of Sandy City, 2008

**Attachments:** [Council Staff Memo STR Background and Timeline](#)  
[Council Staff Memo FAQ](#)  
[Council Staff Memo Important STR Tools](#)  
[Council Staff Memo Land Development Code](#)  
[CD Staff Report.pdf](#)  
[Exhibit A.pdf](#)  
[Exhibit B.pdf](#)  
[Exhibit C.pdf](#)  
[18-21.pdf](#)  
[PC Minutes.pdf](#)  
[Public Comments - PC Mtg.pdf](#)  
[Executed Copy 18-21](#)  
[Exhibit A - Final](#)

Analyst Dustin Fratto along with Zoning Administrator Mike Wilcox presented and reviewed the process for the Residential Short Term Rentals (STRs) ordinance.

Council questions and discussion followed.

Chairman Fairbanks opened the Public Hearing.

Allison Branan spoke in favor of the ordinance.

Cathy P. Anderegg spoke in favor of the proposed ordinance.

Kathy Stark supports adopting the STR ordinance and making it clear there are no STR's in HOA's.

Brooke D'Sousa spoke in favor of allowing STR's in Sandy and private property rights.

Pierrot Awaddlls, owner of an STR, supports the ordinance and creating a waiting list.

Wendy Davis spoke in favor of the ordinance.

Kelly Price indicated that she was in favor of the STR ordinance.

Steve Van Maren referenced comments he sent the Council in an e-mail. He suggested looking to find other ways to calculate owner occupied short term rentals.

Joyce P. Walker supports the ordinance and expressed concern with STR's and property rights.

Susie Austin, Community Coordinator Area 16, expressed comments and concerns representing her community.

Valerie Walker was supportive of STR regulations and increasing permit fees.

Bridget Rees also supports STR's for the income.

Alice Slack spoke in favor of the STR ordinance.

Brandon Draper spoke in support of the STR ordinance.

Kathi Whitman was in favor of owner occupied STR's but expressed concerns.

Stephanie Reed felt the process should be clear cut like an Air B&B.

Ross & Leisa Lingwall spoke in favor and limiting one STR per 100 homes.

Rob Alston supports the regulation as written.

Heather Oakson, County Resident, 2965 Dimple Dell Road, is not opposed to regulations.

Sara Anderson, 11036 Rain Park Ave., spoke in favor.

As there were no further comments, Public Comments was closed.

Council comments and discussion followed.

**A motion was made by Maren Barker, seconded by Zach Robinson, to adopt Ordinance #18-21, amending Title 15A, revised ordinances of Sandy City (The Land Development Code), 2008, Chapter 11, "Special Use Standards", by adding a new Section 25, also modifying Chapter 7, Section 2, "Permitted Land Use Matrix by Residential Districts", Chapter 8, Section 2, "Permitted Land Use Matrix by the Commercial, Office, Industrial Mixed Use, Transit Corridor and Research and Development Districts", Chapter 9, Section 3 "Permitted Land Uses by the Institutional Care District", Chapter 10, Section 2, "Permitted Land Uses in the Open Space District", and Chapter 37, "Definitions" to create new standards for Short Term Rentals in Sandy, also including the changes allowing a one (1) consecutive night between each rental, a maximum twenty-nine (29) consecutive nights in owner occupied single family detached dwellings; also providing a saving clause and effective date for the ordinance.....The motion passed by the following vote:**

**Yes:** 7 - Brooke Christensen  
Maren Barker  
Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

**8. [18-304](#)**

Community Development Department recommending the City Council adopt Ordinance 18-23 amending Title 5 of the Revised Ordinances of Sandy City by adding a new chapter to regulate short-term rentals.

**Attachments:** [Council Staff Memo Business License Code](#)  
[Final Draft STR Ordinance Title 5 CD Proposal](#)  
[Original Council Proposal](#)  
[18- 23 - Title 5.docx](#)  
[Executed Copy 18-23](#)

Analyst Dustin Fratto briefed the Council on four recommended changes from the Community Development Department to the Council's STR Business Licence Code.

Chairman Fairbanks opened the Public Hearing. As there were no comments, the hearing was closed.

**A motion was made by Kristin Coleman-Nicholl, seconded by Brooke Christensen, to adopt Ordinance 18-23, an ordinance amending Title 5, "Business License" of the revised ordinances of Sandy City by adding a new Chapter 5-19, "Short-Term Rentals"; also providing a saving clause for the ordinance and an effective date... The motion carried by the following vote:**

**Yes:** 7 - Brooke Christensen  
Maren Barker  
Kristin Coleman-Nicholl  
Chris McCandless  
Steve Fairbanks  
Zach Robinson  
Linda Martinez Saville

## Adjournment

The meeting adjourned at approximately 10:10 p.m. by Chairman Steve Fairbanks. The next scheduled meeting of the City Council is Tuesday, August 28, 2018, at 5:15 p.m.

---

Steve Fairbanks, Chair  
Sandy City Council

---

Pam Lehman  
Meeting Clerk



# Sandy City, Utah

10000 Centennial Parkway  
Sandy, UT 84070  
Phone: 801-568-7141

## Staff Report

---

**File #:** 18-321, **Version:** 1

**Date:** 9/4/2018

---

Approval of the August 28, 2018 Minutes.

Motion to approve the minutes as presented.



# Sandy City, Utah

10000 Centennial Parkway  
Sandy, UT 84070  
Phone: 801-568-7141

## Meeting Minutes

### City Council

*Brooke Christensen, District 1*  
*Maren Barker, District 2*  
*Kristin Coleman-Nicholl, District 3*  
*Chris McCandless, District 4*  
*Steve Fairbanks, At-large*  
*Linda Martinez Saville, At-large*  
*Zach Robinson, At-large*

---

Tuesday, August 28, 2018

5:15 PM

Multi-Purpose Room #341

---

**\*Meeting location moved to Sandy City Hall Multi-Purpose Room #341**

#### **4:45 Harassment and Employee Handbook Training**

Held.

#### **5:15 Council Meeting - Workshop**

##### **Roll Call**

Council Office Director Michael Applegarth  
Council Office Analyst Dustin Fratto

##### **Administration:**

Mayor Kurt Bradburn  
CAO Matthew Huish  
Deputy to the Mayor Evelyn Everton  
Assistant CAO Shane Pace  
Assistant CAO Korban Lee  
Economic Development Director Nick Duerksen  
City Attorney Bob Thompson  
Community Development Director James Sorensen  
Planning Director Brian McCuiston  
Administrative Services Director Brian Kelley  
Fire Chief Bruce Cline  
Parks & Recreation Director Scott Earl  
Police Chief William O'Neal  
Public Utilities Director Tom Ward  
Public Works Director Mike Gladbach

**Present:** 7 - Council Member Brooke Christensen  
Council Member Maren Barker  
Council Member Kristin Coleman-Nicholl  
Council Member Chris McCandless  
Council Member Steve Fairbanks  
Council Member Zach Robinson  
Council Member Linda Martinez Saville

## Council Workshop Items

1. [18-315](#) Cairns Master Plan Review

**Attachments:** [Long Range Planning](#)  
[The Cairns Master Plan](#)

Assistant CAO Korban Lee, Redevelopment Agency Director Nick Duerksen, and Community Development Director James Sorensen provided a power point presentation on the philosophy, development and potential destinations for The Cairns Master Plan District.

Council discussion and questions followed.

2. [18-316](#) Administrative Services Department recommending the Council receive an update on the Long Term Financial Analysis

**Attachments:** [Long-Term Analysis](#)

Brian Kelley presented an update on the Long Term Financial Analysis.

Council discussion and comments followed.

3. [18-317](#) Administrative Services Department recommending the Council receive an update on the Property Tax Analysis

**Attachments:** [PropertyTaxInfo](#)

Brian Kelley presented the Property Tax Comparison Data from July 2018.

Council discussion and questions followed.

## Adjournment

The meeting adjourned at approximately 7:50 p.m. by Chairman Steve Fairbanks. The next scheduled meeting of the City Council is Tuesday, September 4, 2018, at 5:15 p.m.

---

Steve Fairbanks, Chair  
Sandy City Council

---

Pam Lehman  
Meeting Clerk







## Staff Report

---

**File #:** 18-327, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Robinson recommending the City adopt Resolution 18-46C on climate change.

**Presenter:**

Council Member Robinson

**Further action to be taken:**

Staff will provide executed copies of the Resolution to Utah's congressional delegation.

**Recommended Action and/or Suggested Motion:**

Motion to adopt Resolution 18-46C.

## Resolution #18-46C

### **A RESOLUTION URGING CONGRESS TO LEVY A REVENUE-NEUTRAL FEE ON THE CARBON IN FOSSIL FUELS**

**WHEREAS**, climate change has been widely recognized by government, business and academic leaders as a worldwide threat with the potential to harm our economy, safety, public health, and quality of life; and

**WHEREAS**, the long-term consequences of climate change are devastating to our tourism and recreation-based economy, and quality of life, such as increased heat, prolonged drought, destructive wildfires, increased flooding, reduced stream flow; and

**WHEREAS**, Sandy City recognizes the threats of climate change and pledges to take a leadership role in promoting public awareness, education, and outreach regarding how the economy, the environment, and societal well-being interrelate to each other within the confluence of climate change, thus better preparing our citizens to both mitigate the impacts of climate change and confront the negative impacts of climate change in a more productive manner; and

**WHEREAS**, we are joined in taking action on climate change by a global coalition of cities, counties, state and national governments and community and private sector leaders who recognize the importance and potential of these actions to protect and enhance the well-being of current and future generations; and

**WHEREAS**, the transition away from fossil fuels can be accelerated through a market-driven mechanism, such as a carbon fee and dividend that would encourage and empower residents to reduce and replace their consumption of fossil fuels with renewable and other alternative energy sources through conservation, being more efficient, and choosing less carbon-intensive energy sources; and

**WHEREAS**, Sandy City encourages the United States Congress to pass legislation that levies a revenue-neutral fee on the carbon in fossil fuels at the point of production and importation sufficient to encourage individuals and corporations to produce and use less fossil fuels and to make the transition less onerous on the economy and to consumers by returning to American households all the revenues generated from this fee.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of Sandy City, Utah strongly urge the United States Congress to pass legislation that levies a revenue-neutral fee on the carbon in fossil fuels as part of our commitment to show sustainability leadership at a local, regional, state and national level.

PASSED AND APPROVED by the Sandy City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Steve Fairbanks, Chairman  
Sandy City Council

PRESENTED to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Kurt Bradburn, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

RECORDED this \_\_\_\_ day of \_\_\_\_\_, 2018



## Staff Report

---

**File #:** 18-325, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Christensen recommending the Council adopt "A Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to Serve on Special Committees"

**Presenter:** Council Member Christensen and Dustin Fratto

**Description/Background:**

At present the processes related to appointment and operation of special committees within the City is convoluted at best. Each committee has different membership numbers, appointment dates, term limits, etc. Accurately tracking membership has been difficult for staff and confusing for residents interested in participating. Furthermore, it is in the best interest of the City and our residents that these advisory special committees conduct their business as openly as feasible. For these reasons the Council should consider adopting the attached policy manual which will standardize processes and procedures for special committees while requiring that they conduct business as openly as possible.

**Further action to be taken:**

Upon adoption of the attached policy manual:

1. Title 22 of the Revised Ordinances of Sandy City will need to be updated with a section regarding special committees (item 18-324 on tonight's agenda)
2. Staff liaison's to special committee's will need to work with their committee to develop bylaws that will be approved by the Council
3. Staff liaison's to special committee's and Council staff will need to bring back resolutions appointing and/or re-appointing committee members to follow the guidelines set in the policy manual for the Council to adopt

**Recommended Action and/or Suggested Motion:**

Motion to adopt Resolution 18-40C

**Resolution No. 18-40C**

**A RESOLUTION OF THE SANDY CITY COUNCIL ADOPTING A  
POLICY AND PROCEDURE GUIDE FOR THE APPOINTMENT OF  
CITIZENS, STAFF, AND ELECTED OFFICIALS TO SERVE ON  
SPECIAL COMMITTEES.**

**WHEREAS** the Mayor and City Council have previously jointly created a number of special committees for the purpose of advising the City Council;

**WHEREAS** the special committees previously created by the Mayor and City Council have been governed by inconsistent bylaws, policies, and rules, which have been amended and departed from over the years since the special committees were originally created;

**WHEREAS** the City Council desires to resolve questions that have arisen regarding the status of various special committees that are currently in existence, to resolve questions regarding the appointment of members to special committees, clarify the procedures by which special committees operate, and affirm the valuable role that special committees play in assisting the Mayor and City Council;

**WHEREAS** the City Council has prepared and approved a Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to Serve on Special Committees (the "Policy Manual");

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SANDY CITY:**

1. The Policy Manual attached hereto and incorporated herein as **Exhibit A** is hereby approved. The Policy Manual will govern the organization and operation of all special committees jointly created in the City by the Mayor and City Council whether currently existing or created in the future.

2. The City Council may amend or revise the Policy Manual in the future by amending this resolution or by passing a separate resolution.

3. This resolution takes effect upon adoption.

**APPROVED AND ADOPTED** on \_\_\_\_\_, 2018.

---

Steve Fairbanks, Chairman  
*Sandy City Council*

**Attest:**

---

Molly Spira, *City Recorder*

# **Exhibit A**

## ***The Policy Manual***



**A Policy and Procedural Guide for the Appointment of  
Citizens, Staff, and Elected Officials to Serve on  
Special Committees**



Adopted:  
Last Updated:  
Authority:

1. **TITLE:** A Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to Serve on Special Committees.
2. **PURPOSE:** To provide written policies and procedures detailing the administration of special committees, providing a description of duties, establishing minimum requirements for service and setting the term for service, and establish the method by which the City Council and Mayor may create these bodies and make appointments.
3. **SCOPE:** These policies and procedures are applicable to all individuals or groups who have been delegated responsibility in support of any Sandy City Special Committee. They apply to all special committees except as superseded by local, state, or federal law. Committees that shall adhere to the policies and procedures found within this manual include the Arts Guild, Civic Center Architectural Review Committee, Historic Committee, Community Development Block Grant (CDBG) Committee, and the Public Utilities Advisory Board. Other special committees may be added to the scope of this manual by joint resolution of the Mayor and City Council.
4. **EXCEPTIONS:**
  - a. Individual committee bylaws may further define the requirements found in this manual.
  - b. This manual doesn't apply to any external committee, board, or commission, regardless of whether or not the Mayor or Council appoint one or more representatives to said committee.
  - c. This manual doesn't apply to any statutory committee, board, or commission required by federal, state, or local law.
  - d. This manual doesn't apply to any executive committee as defined in Title 6-2-7 of the Sandy City Code: *The Mayor may solicit the advice of private parties and may administratively establish, drawing from City personnel and private parties, and executive committees to assist and provide counsel in the administration of City affairs. Any such committees so organized shall report to, be coordinated by, and have a liaison with the City through the executive branch of City government in a manner designated by the Mayor.*
  - e. This manual doesn't apply to any ad-hoc committees created by the Mayor or Council that are temporary in nature.
5. **DEFINITIONS:** The following terms and definitions apply:
  - a. **Special Committees (Committee):** A standing group of Sandy City residents, Sandy City business owners, experts, or other individuals who are jointly appointed by the Mayor and City Council to advise them on matters of importance to the City.
  - b. **Committee Member (Member):** An individual who is appointed by the Mayor or City Council to serve on a special committee who is not serving as a staff or council liaison.
  - c. **External Committee, Board, or Commission:** Refers to a Committee, Board, or Commission that is not operated or organized by Sandy City, but instead by a group or

organization external to the City. These committees, boards, or commissions sometimes host liaisons or representatives who are appointed by the Sandy City Mayor or Council.

- d. **Term:** Will mean the duration of any appointment to a board, commission, or committee or as a committee member, officer, liaison, or representative.

**6. RESPONSIBILITY:** The following entities have responsibility in committee appointment and administration

- a. **Special Committee:** It is the responsibility of special committees to advise the City Council regarding legislative matters and to advise the Mayor regarding administrative matters. A special committee has no final decision making authority.
- b. **City Council:** It is the responsibility of the City Council ("Council") to appoint qualified individuals as committee members. The Council may also appoint individual Council Members as Council Liaisons as described herein. Both council appointed committee members and council liaisons serve at the pleasure of the City Council.
- c. **Mayor:** It is the responsibility of the Mayor's Office ("Mayor") to appoint qualified individuals as committee members. The Mayor, or his appointee, will coordinate all staff activities for the committees including the appointment of one or more staff liaison's as described in this manual for each committee. Both mayoral appointed committee members and staff liaison's serve at the pleasure of the Mayor.
- d. **Council Liaison(s):** Appointed by the Council majority as described herein. A Council liaison will serve as an ex-officio, non-voting committee liaison and will assist their assigned committee in the following ways:
  - i. Informs the committee members about items of special interest, as directed by the Council.
  - ii. Reports on actions of the committee to the City Council.
- e. **Chairperson:** The Chairperson is a Committee Member appointed to a one-year term as elected at-large by the members of said committee. The Chairperson will:
  - i. Work with the staff liaison to set meeting agendas.
  - ii. Lead each meeting of the committee ensuring that the committee members and those in attendance adhere to the rules of procedure adopted by the committee.
  - iii. Advise the staff liaison and assist them with their duties.
- f. **Vice-Chairperson:** The Vice-Chairperson is a Committee Member appointed to a one-year term as elected at-large by the members of said committee. The Vice-Chairperson will:
  - i. Execute all powers of the Chairperson in their absence.

Adopted:  
Last Updated:  
Authority:

- g. **Staff Liaison(s):** Appointed by the Mayor as described herein. Staff liaisons will serve as an ex-officio non-voting committee liaison and will assist their assigned committee in the following ways:
  - i. Serves as the secretary and treasurer of the committee.
  - ii. Develops, sets, and publishes the meeting agenda in consultation with the chairperson.
  - iii. Keeps a record of meeting audio recordings, notes, and minutes.
  - iv. Informs the committee members of items of special interest.
  - v. Ensures that the work of the committee complements City goals.
  - vi. Monitors committee member participation and terms making it known to the City Council and Mayor when member appointments are due to expire.
  - vii. Represents the committee to the Mayor's Office, City Staff, and other committees.
  - viii. Makes committee presentations to the City Council as needed.
  - ix. Researches and provides background information and analysis on issues under consideration by the committee.
  - x. Drafts letters, memorandums, and other items of communication as requested by the committee.
  - xi. Provides professional and technical assistance to the committee.
  - xii. Facilitates any required or necessary training for the committee.
  - xiii. Ensures that the committee adheres to all applicable laws, ordinances, and policies.
- h. **Special Committee Members:** Have the responsibility to fulfill the goals, mission, and agenda of the committee they represent as full voting members.
- i. **Alternate Special Committee Members:** Have the responsibility to attend all meetings, but not vote on committee decisions unless serving in the place of a regular committee member. When an alternate is needed to fill the place of a regular member, the alternates will rotate the responsibility.
- j. **City Council Executive Staff:** Will maintain a directory of all committees; In addition, council staff will solicit applications for committee membership.

## 7. PROCEDURES

Adopted:  
Last Updated:  
Authority:

- a. All special committees shall be created by joint-resolution of the Mayor and City Council. When a new committee is created it shall be added to this manual, and will adhere to the policies and procedures prescribed within.
- b. In addition to this manual, each committee will operate under its own set of bylaws to be adopted by the committee and approved by the Mayor and City Council through a joint resolution.
- c. Each committee will hold meetings as required by their committee bylaws, and at such times as required by the Staff Liaison(s), the Mayor, or a majority of the City Council. All meetings of each special committees shall at minimum:
  - i. Publish annually an anticipated meeting schedule for the upcoming year including the date, time, and place of the anticipated meetings to the Utah Public Notice Website.
  - ii. Publish an agenda for each meeting at least 24 hours prior to the start of the meeting, posting one copy on the Utah Public Notice Website and one physical copy at City Hall. The agenda must detail each item that will be discussed, if an item is not on the agenda no final action can be taken on that item.
  - iii. Publish the date, time, and place of each individual meeting on the Utah Public Notice Website and at City Hall.
- d. Sandy City requires that each committee keep written minutes and an audio recording of all meetings. All special committees shall at minimum:
  - i. Keep written minutes for each meeting that include the date, time, and place of the meeting; the names of the members present and absent; the substance of the matters discussed or decided on; a record by individual member of the votes taken; the name of any person making public comment, and the substance of their comment. These minutes shall be made available to the public within a reasonable time after the meeting.
  - ii. The audio of all committee meetings shall be recorded. The recording must be labeled with the date, time, and place of the meeting and are public documents that must be made available to the public. The audio recording must be complete and unedited.
- e. Generally all parts of committee meetings shall be open to the public. The rare circumstances when a meeting can be closed to the public can be found in Utah State Code Title 52-4.
- f. Committees generally receive no funding. Funding requests may be considered by the City Council on an annual basis prior to the adoption of the annual Sandy City Tentative Budget.
- g. Each committee, Excluding the CDBG Committee, will consist of seven (7) voting committee members. Five (5) appointed by a quorum of the City Council, and two (2)

Adopted:  
Last Updated:  
Authority:

appointed by the Mayor. The CDBG Committee will consist of nine (9) voting committee members. Seven (7) appointed by a quorum of the City Council, and two (2) appointed by the Mayor.

- h. Two alternate committee members may be appointed to each committee, one by the Mayor and one by a quorum of the City Council.
- i. Citizen Committee Members serve on a volunteer basis without compensation.
- j. Appointments of Committee Members will be for a term of two years. Appointments will be staggered to four (4) on odd numbered years and three (3) on even numbered years. Appointments will begin on January 1 and end on December 31. Appointments to vacant positions will serve to complete the unfulfilled term of service left by the vacancy. Any alternate committee members will be appointed on even numbered years. The CDBG Committee shall define an appointment process within the Committee Bylaws.
- k. It is the responsibility of the Mayor and the Council to monitor committee progress, recruit service members, and make timely appointments to said committees.
- l. Upon failure of any Citizen Committee Member to attend three consecutive meetings, 50% of total meetings in any 12 month period, or for other reasons of appropriate cause a quorum of the committee, the staff liaison, or the council liaison may recommend that the Mayor terminate a Mayoral appointment, or that the City Council terminate a Council appointment and declare the position vacant. The Mayor may not terminate a Council appointment, and the Council may not terminate a Mayoral appointment.
- m. It is appropriate for the Mayor and members of the City Council to recruit and ask to serve select citizens whose talents, expertise, and interest are most aligned with the mission, goals, and agenda of the committee in question.
- n. The City will maintain on file, for a period of two years, applications for committee service for review of the Mayor or City Council at any time.
- o. Should no action be taken by either the Mayor or the City Council to fill committee vacancies the incumbent committee members and liaisons, shall continue serving until such action takes place.
- p. The Mayor, or his designee, shall appoint one or more non-voting Staff Liaisons for each committee who will serve to assist the committee as described herein. These Liaisons serve at the pleasure of the Mayor.
- q. With a majority vote, Citizen Committee Members may request in writing, through the Office of the Mayor, a change in assigned Staff Liaison for cause.
- r. The City Council may choose to appoint a maximum of two (2) ex-officio, non-voting, Council Liaison(s) for each committee who will serve to assist the committee as described herein. These Liaisons serve at the pleasure of the City Council.

Adopted:  
Last Updated:  
Authority:

- s. The City Department(s) under which a newly formed committee functions shall be designated by the Mayor.
  - t. The Committee Chairperson, a majority of the Committee, the Staff Liaison, the Mayor, or a quorum of the City Council may request that an item be added to a committee meeting agenda providing the request provides a reasonable amount of time for the agenda to be amended if necessary.
  - u. No committee member, officer, or liaison, has the authority to represent, act, or negotiate on behalf of the City or to commit City funds for any purpose unless so authorized by the Mayor and the City Council.
  - v. Four (4) of the voting membership will constitute a quorum. A quorum is necessary to act on any agenda item. The positive or negative vote of the full quorum (4) is required to approve or deny any action by the committee.
  - w. All committees may solicit other volunteer help to serve as deemed appropriate by the staff-liaison or a quorum of the voting members.
  - x. Members of any special committee are subject to the "Municipal Officers and Employees Ethics Act" as found in Title 10-3-13 of the Utah State Code.
- 8. MINIMUM REQUIREMENTS:** Except as superseded by said bylaws, local, state, or federal laws; a person filing an application for a position on a committee shall:
- a. Have been a resident, business owner, or real property owner in Sandy City for 12 consecutive months immediately before the date of appointment.
    - i. A person who is a resident, business owner, or real property owner in an area annexed into Sandy City meets the residency requirement of this subsection if that person resided, owned a business, or owned property within the area annexed to the municipality for at least 12 consecutive months before the date of appointment.
  - b. Undergo a background check prior to being appointed.



## Staff Report

**File #:** 18-324, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

City Council Office recommending the City Council adopt ordinance 18-25 amending title 22 of the Revised Ordinances of Sandy City by adding a section to regulate special committees

**Presenter:** Dustin Fratto

**Description/Background:**

This amendment will add a new section to Chapter 1 of Title 22 in order to regulate those committees created jointly by resolution of the Mayor and Council, special committees. The code amendment states:

22-1-8. Special Committees.

- (a) Creation: The City Council and Mayor may jointly create special committees to advise the Council on legislative matters and the Mayor on administrative matters, or to serve Sandy City in other ways.
- (b) Applicability: Unless otherwise provided by state law, federal law, this code, or executive order this chapter shall apply to all city special committees whether presently organized or to be organized at a future date.
- (c) Procedural Guide: Jointly created special committees shall be governed by the policy and procedure manual, titled "A Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to serve on Special Committees" ("Policy Manual"), which may be amended from time to time by resolution of the city council.
- (d) Retirement Eligibility: Members of special committees are not benefited employees and are not eligible to participate in the Utah retirement system, unless otherwise entitled to benefits as employees of the City or other entity.

**Recommended Action and/or Suggested Motion:**

Motion to adopt ordinance 18-25

ORDINANCE #18-25

AN ORDINANCE ENACTING TITLE 22, CHAPTER 1, SECTION 8, "SPECIAL COMMITTEES"; ALSO PROVIDING A SAVING CLAUSE FOR THE ORDINANCE AND AN EFFECTIVE DATE.

WHEREAS, it is necessary to enact an ordinance of Sandy City, to be codified at Title 22, "Legislative Code", Chapter 1, "City Council", Section 8 "Special Committees" of the Revised Ordinances of Sandy City; and

WHEREAS, Section 10-8-84, Utah Code Annotated, authorizes such amendment in order to protect the public health, safety and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City as follows:

Section 1. The Special Committees ordinance of Title 22, Chapter 1 of the Revised Ordinances of Sandy City is hereby enacted as set forth in **Exhibit "A"** which is attached to and incorporated in this ordinance.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code hereby adopted are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 4. This ordinance shall become effective upon publication of a summary thereof and the City Recorder is hereby directed to publish such summary as soon as practically possible.

PASSED AND APPROVED by the Sandy City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

---

Steve Fairbanks  
Sandy City Council Chair



PRESENTED to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Kurt Bradburn, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

RECORDED this \_\_\_\_ day of \_\_\_\_\_, 2018.

SUMMARY PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2018.

## **Attachment "A"**

### **22-1-8.        Special Committees.**

- (a) Creation: The City Council and Mayor may jointly create Special Committees to advise the Council on legislative matters and the Mayor on administrative matters, or to serve Sandy City in other ways.
- (b) Applicability: Unless otherwise provided by state law, federal law, this code, or executive order this chapter shall apply to all city Special Committees whether presently organized or to be organized at a future date.
- (c) Procedural Guide: Jointly created Special Committees shall be governed by the policy and procedure manual, titled "A Policy and Procedural Guide for the Appointment of Citizens, Staff, and Elected Officials to serve on Special Committees" ("Policy Manual"), which may be amended from time to time by resolution of the city council.
- (d) Retirement Eligibility: Members of Special Committees are not benefited employees and are not eligible to participate in the Utah retirement system, unless otherwise entitled to benefits as employees of the City or other entity.



## Staff Report

---

**File #:** 18-322, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Christensen recommending that the Council make appointments to the Community Development Block Grant (CDBG) Committee

**Presenter:** Council Member Christensen

**Description/Background:**

Council Member Christensen is recommending that Greg Wilson and Nate Nichol be appointed to the CDBG Committee bringing the committees active membership to 9 committee members.

**Recommended Action and/or Suggested Motion:**

Motion to adopt the attached resolutions appointing Greg Wilson and Nate Nichol as regular members of the CDBG Committee with terms beginning on September 5, 2018 and expiring on June 30, 2020.

## RESOLUTION #18-41C

### A RESOLUTION APPOINTING **GREG WILSON** AS A **REGULAR** MEMBER TO THE SANDY CITY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) COMMITTEE

BE IT RESOLVED by the City Council in Sandy City, Utah, that Greg Wilson be appointed as a regular member to the Sandy City Community Development Block Grant Committee.

The appointment will be as follows:

to fill a term as a regular member, beginning on September 5, 2018 and ending on June 30, 2020.

PASSED AND APPROVED this 4<sup>th</sup> of September, 2018

---

Steve Fairbanks, Chair  
Sandy City Council

ATTEST:

---

City Recorder

RECORDED this \_\_\_\_\_ day of \_\_\_\_\_, 2018

## RESOLUTION #18-42C

### A RESOLUTION APPOINTING **NATE NICHOL** AS A **REGULAR** MEMBER TO THE SANDY CITY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) COMMITTEE

BE IT RESOLVED by the City Council in Sandy City, Utah, that Nate Nichol be appointed as a regular member to the Sandy City Community Development Block Grant Committee.

The appointment will be as follows:

to fill a term as a regular member, beginning on September 5, 2018 and ending on June 30, 2020.

PASSED AND APPROVED this 4<sup>th</sup> of September, 2018

---

Steve Fairbanks, Chair  
Sandy City Council

ATTEST:

---

City Recorder

RECORDED this \_\_\_\_\_ day of \_\_\_\_\_, 2018



## Staff Report

---

**File #:** 18-323, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Christensen recommending that the Council make appointments to the Historic Committee

**Presenter:** Council Member Christensen

**Description/Background:**

Council Member Christensen is recommending that Sheldon Wayne, Terry Parkin, and Sean Kowallis be appointed as regular members to the Historic Committee bringing the Committee's active membership to 6 members.

**Recommended Action and/or Suggested Motion:**

Motion to adopt the attached resolutions appointing Sheldon Wayne and Terry Parkin as regular members of the Historic Committee with terms beginning on September 5, 2018 and expiring on December 31, 2019; and appointing Sean Kowallis as a regular member of the Historic Committee with a term beginning on September 5, 2018 and expiring on December 31, 2020.

## RESOLUTION #18-44C

### A RESOLUTION APPOINTING **SHELDON WAYNE** AS A **REGULAR** MEMBER TO THE SANDY CITY HISTORIC COMMITTEE

BE IT RESOLVED by the City Council in Sandy City, Utah, that Sheldon Wayne be appointed as a regular member to the Sandy City Historic Committee.

The appointment will be as follows:

to fill a term as a regular member, beginning on September 5, 2018 and ending on December 31, 2019.

PASSED AND APPROVED this 4<sup>th</sup> of September, 2018

---

Steve Fairbanks, Chair  
Sandy City Council

ATTEST:

---

City Recorder

RECORDED this \_\_\_\_\_ day of \_\_\_\_\_, 2018

## RESOLUTION #18-45C

### A RESOLUTION APPOINTING **TERRY PARKIN** AS A **REGULAR** MEMBER TO THE SANDY CITY HISTORIC COMMITTEE

BE IT RESOLVED by the City Council in Sandy City, Utah, that Terry Parkin be appointed as a regular member to the Sandy City Historic Committee.

The appointment will be as follows:

to fill a term as a regular member, beginning on September 5, 2018 and ending on December 31, 2019.

PASSED AND APPROVED this 4<sup>th</sup> of September, 2018

---

Steve Fairbanks, Chair  
Sandy City Council

ATTEST:

---

City Recorder

RECORDED this \_\_\_\_\_ day of \_\_\_\_\_, 2018



## RESOLUTION #18-43C

### A RESOLUTION APPOINTING **SEAN KOWALLIS** AS A **REGULAR** MEMBER TO THE SANDY CITY HISTORIC COMMITTEE

BE IT RESOLVED by the City Council in Sandy City, Utah, that Sean Kowallis be appointed as a regular member to the Sandy City Historic Committee.

The appointment will be as follows:

to fill a term as a regular member, beginning on September 5, 2018 and ending on December 31, 2020.

PASSED AND APPROVED this 4<sup>th</sup> of September, 2018

---

Steve Fairbanks, Chair  
Sandy City Council

ATTEST:

---

City Recorder

RECORDED this \_\_\_\_\_ day of \_\_\_\_\_, 2018



## Staff Report

---

**File #:** 18-320, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Nicholl recommending amendment to Title 6, Sandy City Administrative Code pertaining to Council-Mayor Relationships.

**Presenter:**

**Council Member Nicholl**

**Description/Background:**

On August 21, 2018 Council Member Nicholl introduced an amendment to Title 6 of the Sandy City Code to clarify the section on Council-Mayor relationships, particularly in regard to how Council Members and staff receive information from Administration employees. The City Council voted to pursue the amendment. The Administration has reviewed the proposal and recommends minor changes. A revised ordinance is attached.

**Recommended Action and/or Suggested Motion:**

Motion to approve Ordinance 18-24.

## ORDINANCE 18-24

AN ORDINANCE AMENDING TITLE 6, OF THE REVISED ORDINANCES OF SANDY CITY ADOPTING REVISIONS TO THE ADMINISTRATIVE CODE; ALSO PROVIDING A SAVING CLAUSE FOR THE ORDINANCE AND AN EFFECTIVE DATE.

WHEREAS, it is necessary to amend Title 6, “Administrative Code” of the Revised Ordinances of Sandy City to reflect changes added to Chapter 2, Section 5, “Council-Mayor Relationship”; and

WHEREAS, Section 10-8-84, Utah Code Annotated, authorizes such amendment in order to protect the public health, safety, and welfare of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City as follows:

Section 1. Amendment. Title 6 of the Revised Ordinances of Sandy City is hereby amended as set forth in **Exhibit A** which is attached to and incorporated in this ordinance. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 2. Severable. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid or unconstitutional by a court of competent jurisdiction, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

Section 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED by the Sandy City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

---

Steve Fairbanks, Chairman  
Sandy City Council

PRESENTED to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Kurt Bradburn, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

RECORDED this \_\_\_\_ day of \_\_\_\_\_, 2018

SUMMARY PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2018.

## EXHIBIT A

# TITLE 6 ADMINISTRATIVE CODE

## Chapter 2 OFFICE OF MAYOR

### 6-2-5. Council-Mayor Relationships.

- (a) The Mayor shall make all appointments to the Planning Commission and Board of Adjustment after having received the advice and consent of the City Council on each separate prospective appointment. The Mayor is hereby authorized and granted the power to fire, discharge, remove, suspend or otherwise appropriately discipline officers, department heads, administrative assistants and the City Administrator and other persons in the executive branch of City government, and to delegate this authority, consistent with the provisions of City ordinance, State statute, or other applicable law.
- (b) ~~Before any member of the City Council requests from any member of the administrative staff any assistance, advice or work product, the Council member shall consult with and obtain approval from the Mayor. This consultation and approval requirement shall not apply to requests by members of the City Council for information, advice or assistance from staff members when such action can be accomplished in a short period of time or without the expenditure of more than a nominal amount of administrative time or funds.~~  
(Ord17-06, Amended 2/7/2017)

*Council Members and their staff may request and receive information, advice or assistance from any administrative staff member. The Mayor may not prohibit Council members or their staff's direct interaction with administrative staff for information, advice or assistance, but may prescribe administrative procedures for Council Member requests requiring the completion of tasks or work products involving the expenditure of more than a nominal amount of time or funds. A Council Member receiving work product from staff shall promptly share such information or work product with all Council Members.*



## Staff Report

**File #:** 18-318, **Version:** 1

**Date:** 9/4/2018

---

### **Agenda Item Title:**

Council Office proposing a position reclassification.

### **Presenter:**

Mike Applegarth

### **Description/Background:**

The City Council Office proposes to create a Senior City Council Analyst position. The duties of the new position are similar to the existing Management Analyst, but functions with a higher level of independence, autonomy, and judgement. While City Council approval is not required to create the new position, the increase in salary and benefits will have to be covered in the current fiscal year and budgeted for in FY 2019-20.

### **Fiscal Impact:**

The Senior Analyst position would be an increase from 4.3 of the salary range to 4.4.

Salary Range	Minimum	Maximum
4.3	\$1,888.80	\$2,795.20
4.4	\$2,028.80	\$3,002.40

At the maximum, it is estimated that over 26 pay periods the additional salary and variable benefits would increase approximately \$7,734.34. Actual costs this fiscal year are less because several pay periods have elapsed and the current Management Analyst to be promoted is not near the top of the salary schedule.

### **Further action to be taken:**

The Council Office is considering the promotion of the incumbent Management Analyst.

### **Recommended Action and/or Suggested Motion:**

Motion to support the analyst reclassification as presented.

SANDY CITY  
DRAFT CLASS SPECIFICATION

I. Position Title: Senior Management Analyst - City Council

Revision Date: ▼  
EEO Category: Professional  
Status: Exempt (Admin.)  
Control No. 20153

**Deleted:** 01/17

**Deleted:** 20152

II. Summary Statement of Overall Purpose/Goal of Position:

An appointed position under the general supervision of the City Council Executive Director, Leads a variety of multifaceted administrative, organizational, systems, budgetary, statistical, communication, and other analyses and staff support related to the City Council Office; makes recommendations for action and executes policy, procedure and implementation. This position is distinguished from the City Council Management Analyst position in that it requires a high degree of autonomy and judgement, with less direct supervision.

**Deleted:** performs

**Deleted:** and community liaison work

**Deleted:** assists

**Deleted:** in

III. Essential Duties:

- Provides direct staff support to City Council Members in the form of research, special projects, analysis, policy and procedure development, problem resolution, and constituent communication and outreach.
- Evaluates and executes alternative courses of action, and makes recommendations to the City Council Members, and/or Executive Director when necessary.
- Prepares and presents reports, correspondence, and other written materials.
- Analyzes information using statistics, regression analysis, and spreadsheet calculations.
- Presents results through graphs, charts, slides, pictures and video.
- Reviews agenda items and determines accuracy and completeness of items including resolutions, ordinances, recognitions, public hearings, informational reports pending on the City Council's meeting agenda.
- Assists in the development and implementation of Council Office goals and objectives.
- Leads Council initiatives, and coordinates activities with those of City departments depending upon the nature of the project to which assigned.
- Confers with representatives of other governmental agencies, businesses, professional organizations, citizens groups, and the public generally.
- Represents the City Council Office and/or City Council Members as assigned at various meetings.
- Attends and may help manage City Council meetings, and also provides liaison and staff support to a variety of committees and commissions.
- Maintains collaborative relationships with City Administration, Departments, and line staff.
- Assists with public outreach and citizen engagement goals through community meetings, development of traditional communication pieces, social media, distribution lists, and creatively managed website content.

**Deleted:** and/or

**Deleted:** ¶  
City Council Members.

**Deleted:** Assists in reviewing

**Deleted:** for

**Deleted:** C

**Formatted:** Indent: Left: 0.5", No bullets or

**Deleted:** assigned.¶

IV. Miscellaneous Duties:

- Performs other duties as assigned.

V. **Education:** Requires a bachelor's degree in public or business administration, or closely related field. Master's degree in public or business administration preferred. Strong quantitative skills, written and verbal communication skills.

**Experience:** Requires three years of experience with the Sandy City Council Office. May substitute a Master's degree in public administration, business administration, accounting or related field for two years of experience.

**Deleted:** one year of related experience in

**Deleted:** public/business administration. May substitute an equivalent combination of education and experience.¶

**Certificates/Licenses:** Requires a valid Utah driver's license.

**Probationary Period:** Not applicable. This is an appointed position exempt from the protections described in Utah Code Ann. Section 10-3-1105(1)(a).

**Knowledge of:** Current private and public sector administration methods; statutory context of municipal governance; e-mail systems and computer programs including Adobe Pro and Microsoft Office products including Word, Excel, and PowerPoint; correct English usage, vocabulary and spelling.

**Communication Skills:** Contacts with other departments, outside organizations, and the public; furnishing and obtaining information; regular and frequent contact with persons of high rank, requiring tact and judgement; requires well developed political instinct and sense of strategy and timing; contact with City management and the public presenting data that may influence important decisions; frequent contacts involving the carrying out of programs and schedules; influencing others to obtain desired results; using sound judgement to avoid friction; communicating effectively verbally and in writing.

**Tool, Machine, and Equipment Operation:** Requires regular use of office equipment, including computer, telephone, copy machine, printer and audio visual equipment. Occasional use of personal or City vehicle.

**Analytical Ability:** Establish and maintain effective working relationships with employees, executives and the public; apply general problem solving and analytical principles to effectively deal with various situations; prioritize tasks; work well under pressure and impending deadlines; relate well with a variety of persons under varying circumstances; ability to analyze a situation and make sound recommendations and presentations.

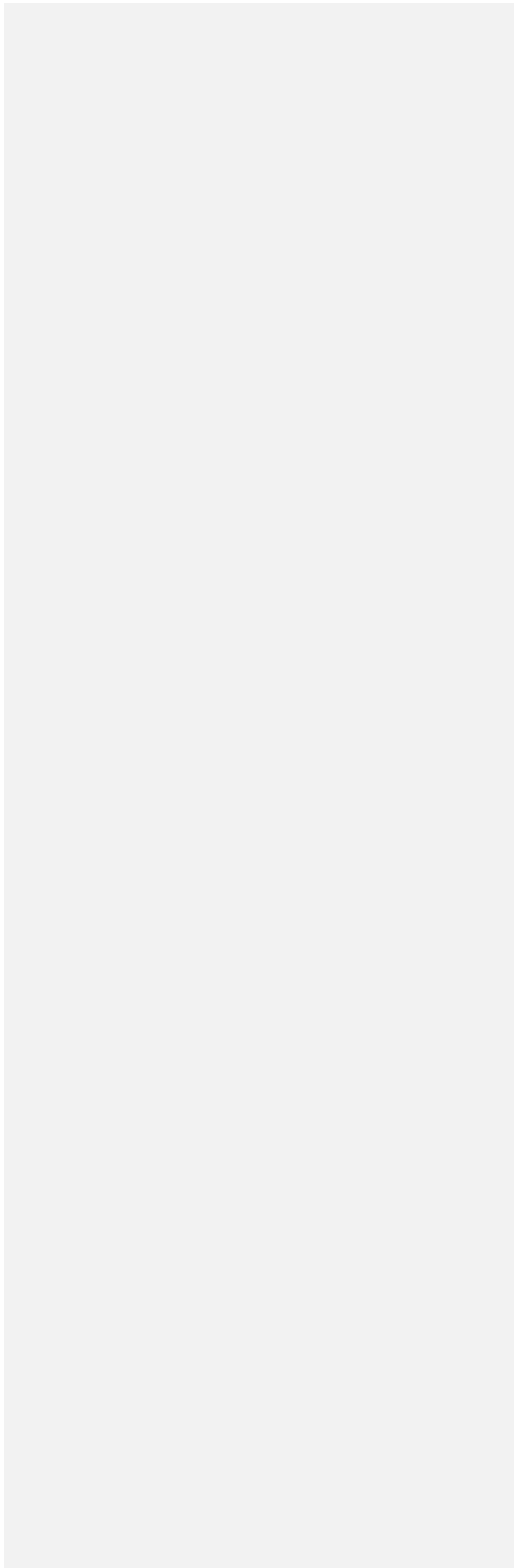
#### VI. Working Conditions:

*Physical Demands:* While performing duties of job, employee typically handles office equipment, objects or controls. Moderate physical exertion is present because of moderate stooping and kneeling required. Employee may sit or stand for long periods of time and may occasionally move up to 20 pounds. Employee frequently communicates with others.

*Work Environment:* Employee will work in a generally comfortable office setting. The noise level in the work environment is usually minimal. Moderate pressure and fatigue are present due to frequent exposure to stressful situations as a result of human behavior and frequent deadlines; limited evening and weekend work required; very frequent contact with employees and the public; near constant mental application; occasional exposure to inclement weather conditions visiting work places and work sites of employees, or attending offsite meetings.

The above statements are intended to describe the general nature and level of work being performed by the persons(s) assigned to this job. They are not intended to an exhaustive list of all duties, responsibilities and skills required of personnel so classified. The approved class specifications are not intended to and do not infer or create any employment, compensation or contract rights to any person or persons. This updated job description supersedes prior descriptions for the same position. Management reserves the right to add or change duties at any time.





DEPT/DIVISION APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

PERSONNEL DEPT. APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_



## Staff Report

---

**File #:** 18-326, **Version:** 1

**Date:** 9/4/2018

---

**Agenda Item Title:**

Council Member Nicholl recommending an amendment to the Sandy City Purchasing Code clarifying the City Council's contracting authority.

**Presenter:**

Council Member Nicholl

**Description/Background:**

The Sandy City Purchasing Code does not expressly identify the City Council's contracting authority. Out of an abundance of caution to ensure vendors that Council-retained professional services are valid, Council staff has requested that our two most recent professional services contracts were executed by the Mayor. They include the:

- Granicus agenda management contract (signed by Mayor Dolan 11-12-15)
- Council legal services contract with Cowdell Woolley (signed by Mayor Bradburn effective 6-1-18)

Though the City Council does not often contract directly for professional services, it would be prudent to clarify the Council's authority in this regard. Other cities with the Council-Mayor form of government with express council contracting provisions in their codes include Ogden and Salt Lake City. A draft code amendment is included for the Council's reference.

**Fiscal Impact:**

There is no fiscal impact associated with this item.

**Further action to be taken:**

Council Member Nicholl and staff will work with Administration on a final version of the proposed amendment.

**Recommended Action and/or Suggested Motion:**

Motion to approve the further development of the Purchasing Code amendment to clarify the Council's contracting authority.

# TITLE 11

## PURCHASING PROCEDURES

### Chapter 1 PURCHASING

#### 11-1-1. Purpose.

The underlying purposes of this ordinance are:

- (a) To provide for the economy, efficiency, and to encourage competition in City procurement activities.
- (b) To procure the best services, materials and construction at the most reasonable cost to the City.
- (c) To provide fair treatment of persons who conduct business or wish to do business with the City.

Nothing in this statement of purposes shall create rights, interests, or causes of action against the City, its officers, agents or employees. Failure to follow the procedures set out herein shall not invalidate a procurement unless otherwise provided by law.

#### 11-1-2. Definitions.

As used in this chapter:

"Business day" means a day when Sandy City administration offices are open for public business.

"City" means Sandy City Corporation.

"City Purchasing Agent" or "Purchasing Agent" means the purchasing agent or assistants whose duties include procurements of goods and services for the entire City.

"Department Buyer" means the person or persons charged by a City department head to make procurements for that department.

"Emergency" means an imminent threat to the public's health, welfare, safety or of an imminent and substantial risk of injury or loss to property under conditions which reasonably do not permit fulfilling all of the purchasing requirements provided for in this chapter.

"Item" means goods, services, or a combination of both, of one type.

"Professional services" includes, but is not limited to the following services: medical diagnosis or treatment; veterinary; psychological or emotional diagnosis, testing, analysis, counseling or treatment; auditing; banking; insurance; bonding; risk management; engineering; architectural; legal; public surveying and statistical analysis; hazardous substance consulting and disposal; construction management; tax consulting; financial investment; appraisal; title research; geology consulting; hydrology; history; technical writing; seismic consulting; impresarios, producers, directors, music conductors, choreographers, authors, artists, and other artistic services; and other consulting services which require a high level of training, skill and special knowledge not common among lay people.

"Provider" means a person who offers or provides goods, services, or a combination of both to the City under contract.

### **11-1-3. Purchasing Agent, Specifications.**

The City may appoint a Purchasing Agent whose duties shall be defined by the City Administrator and the Finance Director. Those duties may include: procurement, soliciting bids and proposals, negotiating, recommending and administering contracts, advising departments on procurements, maintaining a bidders' list, vendors' catalogue files, and records needed for the efficient operation of his or her duties, making written determinations for the City, and the development and maintenance of forms as are reasonably needed for the purposes of this chapter, supervise the inspection of supplies and equipment. The Purchasing Agent may recommend rules and regulations to govern matters covered by this ordinance, including, but not limited to protests and appeals, the preparation, maintenance, and content of specifications for supplies, services and construction required by the City. One or more assistants may be employed to assist the City Purchasing Agent in performing his or her duties.

### **11-1-4. Specifications.**

The City may prepare specifications for the purchase of goods, services and construction which contain information and detail which seeks to promote the purposes of this Chapter 11-1. The specifications shall be maintained for the period of time required by law. The Purchasing Agent may, in addition, promulgate rules and regulations to govern the preparation, maintenance, and content of specifications for supplies, services and construction required by the City for the purposes set out in this Section.

### **11-1-5. Scope.**

(a) *Superior or More Suitable Products.* Whenever the requisitioning department head or his or her designated representative finds in a signed memorandum a copy of which shall be sent to the Purchasing Agent and the City Administrator, that a particular product significantly surpasses competing products in terms of quality, serviceability or longevity, or that such a product is better suited to the needs of the City in order to lower costs of inventory, to maintain compatibility with City equipment, or because doing so will lower the costs of service or

procurements, such a product may be procured notwithstanding the fact that a competing product could be procured at a lower cost.

(b) *State or Federal Purchasing Prices.* The City need not solicit competitive bids or proposals when making procurements through cooperative purchasing contracts administered by the State Division of Purchasing, or an agency of the Federal government, the benefits of which are also available to the City.

(c) *Cooperative Procurements.* The City may join with other units of Federal, State or local government, or with special districts, school districts, and such other similar agencies as the City Council may by resolution direct, in purchasing goods and services. In such cases the City is encouraged, but is not required to follow a competitive bidding process or request for proposals where that would be required if the service or goods were procured by the City alone. Notwithstanding the foregoing, purchases shall be made in accordance with State law, such as Section 10-7-20, Utah Code Annotated, regarding contracts for new public improvements construction costs where the estimated cost exceeds \$25,000.

(d) *Goods \$2,000 or Less - No Bids.* City procurements of goods and services reasonably expected to cost \$2,000 or less do not require the solicitation of bids or proposals, although bids may be solicited orally or otherwise if desired. Procurements under this subsection may be made by cash payment, but in such cases the procurer should obtain a receipt for the payment.

(e) *Goods and Services Costing \$2,001 to \$5,000- Three Oral Quotes.* Procurements of goods and services reasonably expected to cost more than \$2,001 but not more than \$5,000 in total shall require three telephone, oral, or written quotes for prices from proposed vendors of goods or services. The Purchasing Agent or Department Buyer shall make a signed written record of quotes and reasonably detailed product or service information about each of them, sufficient to compare and make a reasonably informed choice from among the vendors who make offers or bids, including the name of the vendor, the vendor's address, telephone number, and the price quoted. Procurements within this subsection (e) shall be made by purchase order unless made by written contract. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. The decision about which vendor to choose for the services or goods shall be made based upon the information submitted. The Purchasing Agent or Department Buyer may allow a person who has prepared or helped to prepare specifications for use in a City procurement to bid or submit a proposal for the procurement if doing so is not unfair to other bidders or proponents, in the reasonable discretion of the Purchasing Agent or Department Buyer; otherwise, such person shall not be allowed to bid or submit a proposal.

(f) *Goods and Services Costing \$5,001 to \$25,000 - Three Written Bids.* Procurements of goods and services reasonably expected to cost more than \$5,001 but not more than \$25,000 in total shall require the receipt of three bids or proposals in writing unless three vendors willing to submit such bids or proposals cannot reasonably be obtained. In the event three vendors willing to provide quotes cannot reasonably be obtained, then the Purchasing Agent or Department Buyer shall make a signed written record of quotes and product and service information about each vendor willing to provide quotes, and a record of efforts to obtain other quotes. Procurements within this subsection 11-1-5(f) shall be made by purchase order unless made by written contract.

(g) *May Use Formal Bidding Requirements.* All formal bidding and requests for proposals shall be issued by the City Purchasing Agent or his or her assistants. The requirements contained herein are minimal requirements, and nothing in this section shall prevent the Purchasing Agent, the City Council, Mayor or the City Administrator may require that the procurement of services, supplies, materials or equipment be competitively bid or that competitive offers be solicited in cases that otherwise would not so require if it is determined that such action to be in the best interest of the City.

(h) *Contracts for Legislative Purposes:* Professional service contracts for solely legislative purposes shall be solicited, ranked, selected and negotiated in substantial compliance with the provisions of this article. When authorized by the City Council, the City Council Chair, or the Council Executive Director may:

- (1) Determine the composition of a selection committee;
- (2) Approve the criteria for ranking of professional service proposals;
- (3) Negotiate on behalf of the City Council; and
- (4) Execute a contract for professional services.

#### **11-1-6. Exceptions.**

The competitive purchasing requirements of this chapter need not be followed in the following circumstances. In such cases, written documentation should be made demonstrating that a procurement falls within one of the following provisions of this section.

(a) *Grant, Gift, Bequest.* In complying with the terms and conditions of any grant, gift, or bequest to the City, or to one of the City's departments or subdivisions, committees, or a community organization which functions under City auspices if such action is approved by the City Council and is otherwise consistent with law.

(b) *Federal or State Assistance.* When a procurement involves the expenditure of federal or State assistance funds, and to the extent that doing so requires that federal or State law or regulations be followed rather than City ordinances.

(1) *Suspension and Debarment Certification.* For subrecipients and contractors receiving \$25,000 or more in federal funds from the City, request-for-bid or proposal documents will contain language notifying bidders or proponents of federal or State suspension and debarment requirements, which shall be provided in forms by which bidders or proponents can certify their status. At time of bid, bidders or proponents will be required to certify their suspension and debarment status as a mandatory element of their bids or proposals.

(2) *System for Award Management ([sam.gov](http://sam.gov)).* Purchases in excess of \$25,000 in federal funds where bidding is not required (i.e., in State contracts, or where disbursements exceed \$25,000 on existing contracts) the Purchasing Agent or the

Department Buyer shall not award contracts or orders to persons suspended or debarred by the United States government, which shall be determined by checking the federal suspension and debarment website (currently, [sam.gov](http://sam.gov)) for a favorable suspension and debarment status for such persons before a bid or proposal is awarded, an order is placed, or a contract for goods or services with such person is signed.

(3) **Supporting Documentation.** Supporting documentation relating to suspension and debarment status shall be kept by the Purchasing Agent and/or the Department Buyer pursuant to federal, State and City laws and regulations.

(c) *Emergency Procurements.* Notwithstanding any other provision of this chapter, procurements may be made in emergencies by the Purchasing Agent, a department head, or a designee of either in instances in which the procurement could not reasonably have been made pursuant to this chapter, provided that procurements shall be made with as much competition as practicable under the circumstances. Promptly thereafter the department head of the department

which made the procurement shall provide a signed written statement to the City Purchasing Agent setting out in reasonable detail the item procurement, the price, and cause and basis for the emergency and why the procedures set out in this chapter were not followed. A copy of the statement shall be included in the contract file.

(d) *Single-Source Provider.* Procurements of products, services or construction items available only from a single provider. The Mayor, City Administrator, Department head or the Purchasing Agent shall find in writing that there is only one source for the item or service.

(e) *Compatibility, Parts, Training.* Procurements of equipment which, by reason of the training of City personnel who service such equipment, or which is an addition to or for the repair or maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a certain brand, person or firm.

(f) *Additional or Replacement Parts.* Equipment which, due to an inventory of replacement parts maintained by the City is compatible only with existing equipment owned, leased or used by the City, need not, where the department head or the Purchasing Agent finds in a signed writing that the City's interest is better served by so purchasing, procurement a different brand of such equipment.

(g) *Professional Services.* Contracts for professional services reasonably expected to cost more than \$5,000 for the services specifically set out in the contract shall be awarded at the discretion of the Mayor, or a person designated by the Mayor.

(1) *Criteria for Award.* Contracts for professional services shall be based on the evaluation of professional qualifications, service ability, cost of service, and other service-related criteria.

(2) *Manner of Selection.* Criteria for award of professional service contracts costing more than \$5,000 may be determined through one or more of the following methods:

(A) Competitive bid;

(B) Request for Proposals (RFP); or

(C) Informal Survey.

(3) Where criteria for award of professional service contracts costing more than \$5,000 are determined through informal survey or through some lesser review, then award of the contract or its proposed award shall be disclosed in writing to the City Council by the department head or a person designated by the department head along with a reasonably detailed written summary of the findings of that survey.

(h) *Insufficient Bids.* Where fewer than three responses are made to a bid solicitation or request for proposals after reasonable efforts to obtain three or more bids or proposals, the Purchasing Agent or Department Buyer responsible for the purchase may, after making a signed writing setting out the circumstances thereof, a copy of which shall be placed in the contract file, make a purchase which in his or her reasonable discretion meets the purposes of this ordinance by purchasing in a manner which does not conform to the formal bidding or RFP process set out in this chapter.



(i) *City Council Determinations.* The City Council may authorize the procurement of supplies, equipment and services without complying with the provisions of this chapter when it determines that compliance with the procedure is not in the best interests of the City. A memo shall be placed in the file for the purchase setting out the reasons for doing not following the purchasing provisions which otherwise would apply.

(j) *Special Opportunity Purchases.* Where a substantial savings will be realized thereby in the purchase of goods or non-professional services costing more than \$25,000, and provided that sufficient money has been appropriated for the purchase, a Department may avoid competitive bidding or the RFP requirements set out in Section 11-1-8, by the following streamlined procedures, provided other applicable provisions of this Chapter are met before the purchase is made:

(1) It shall, in its reasonable discretion, obtain offers from competing sources in a manner most likely to meet the purposes of this Chapter; and

(2) The Department Head shall disclose the proposed purchase in a signed written memorandum to the Mayor and City Administrator, setting out in reasonable detail the reason the purchase is recommended, the reason normal purchasing procedures are not recommended, and the proposed savings, and what efforts have been made to obtain competitive offers; and

(3) The Mayor and City Administrator each agrees in a signed memorandum that he or she believes that the purchase is justified, and that the purposes of this Chapter will be met thereby.

#### **11-1-7. Splitting Orders to Avoid Competitive Bidding Prohibited.**

No person may split or separate into smaller orders the procurement of supplies, materials, equipment or services for the purpose of evading the competitive bidding or request for proposal provisions of this ordinance.

#### **11-1-8. Formal Bidding Procedure.**

The following procedures shall apply to the procurements of all materials, supplies, equipment, public improvements, and non-professional services which cost \$25,000 or more, and may be used for professional services. All bids and requests for proposals shall be made by the City Purchasing Agent.

(a) *General.* The Purchasing Agent shall issue Invitations to Bid or Requests for Proposals for materials, supplies, equipment, services, insurance, public contracts, and other items required for the City.

(b) *Invitations to Bid.* An invitation to Bid shall describe the material, supplies, equipment, services or insurance with sufficient particularity to allow for competitive bidding and evaluation, and shall include a procurement description, and contractual terms and conditions applicable to the procurement.

(c) *Bid and Proposal Submissions.* Bidders must submit responsive Bids and Proposals on or before the bid closing to the Purchasing Agent to be eligible for consideration. The City Purchasing Agent may in his or her discretion consider a Bid or Proposal which was timely

submitted via a delivery medium which arrives after the bid closing, provided acceptance of the Bid or Proposal is reasonably determined by the Purchasing Agent to be in the best interests of the and there is no evidence or likelihood of collusion or fraud upon the procurement process. Formal Bids shall otherwise be opened at a public bid opening.

(1) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information specified by rules and regulations, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

(2) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, except that criteria in determining responsible bidders contained in this chapter 11-1 need not be set forth in the invitation for bids. The Purchasing Agent shall attempt to make selections based on those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The criteria may include discounts, transportation costs, and total or life cycle costs.

(3) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in the interest of the City in the reasonable discretion of the Purchasing Agent in consultation with a representative of the interested City department. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or to fair competition shall be permitted. Except as otherwise provided by this chapter, or rules and regulations, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes by a provider shall be supported by a written determination made by the Purchasing Agent.

(d) *Award Under Invitation to Bid.* Contracts for procurement under an Invitation to Bid shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Determinations may be based on one or more or any combination of factors which will serve to meet City requirements at the best economic advantage to the City including but not limited to: unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs (to include consideration for the cost associated with proprietary invention), experience and responsibility of bidder. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than 5%, the chief procurement officer or the head of a purchasing agency is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(e) *Two-Step Awards.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(f) *Lowest Responsible Bidder.*

(1) In determining lowest responsible bidder, the Purchasing Agent may in his or her discretion consider one or more of the following criteria, which may be included as purchase criteria in the invitation for bids:

- (A) The quality of supplies offered;
- (B) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or service required;
- (C) Whether the bidder can perform the contract or provide the supplies promptly, or within the time specified, without delay or interference;
- (D) The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or provide the supplies or services;
- (E) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (F) The quality of bidder's performance on previous orders or contracts for the City or others;
- (G) Litigation or claims by the bidder without substantial basis;
- (H) Any previous or existing noncompliance by the bidder with laws and ordinances relating to the subject of the contract;
- (I) The ability of the bidder to provide future maintenance and service, where such maintenance and service is essential; and
- (K) Price.

(2) Determination of nonresponsibility of a bidder, or written determination of nonresponsibility of a bidder or offeror shall be made in accordance with this chapter. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the department making the purchase and the Purchasing Agent's office without prior written consent by the bidder or offeror.

(3) After reasonable notice to the person involved, the Purchasing Agent may debar a person for cause from consideration for award of City contracts.

(g) *Competitive Sealed Proposals.* As an alternative to the bidding process provided for this

section, competitive proposals may be solicited in the discretion of the Purchasing Agent, the Mayor, City Administrator, or a Department head, and a contract may be entered into by competitive sealed proposals.

- (1) Competitive sealed proposals may be used for the procurement of services of consultants, professionals, and providers.
- (2) Proposals shall be opened so as to avoid disclosure of the contents to competing offerors before a contract is signed with the offeror during the process of negotiation.
- (3) A register of proposals shall be prepared and shall list such information with respect to each proposal as is important in making the decision which shall be open for public inspection after award of the contract. The register shall be open for public inspection after award of the contract.
- (4) The request for proposals shall state the relative importance of price and other evaluating factors.
- (5) As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the contract is awarded for the purpose of obtaining best and final offers. In conducting discussions, reasonable care shall be taken to avoid the disclosure of information derived from proposals submitted by competing offerors which is not known to the competitors.

The contract file shall contain the basis on which the award is made.

(h) *Waiver of Defects, Technicalities.* The City Purchasing Agent together with the head of the department purchasing the item or service may waive defects and technicalities when doing so is in the best interests of the City. The City Purchasing Agent shall, where practicable, take reasonable efforts to notify all bidders of the determination thereof.

(i) *Bid Bond.* A bid bond may be required on items, contracts, materials and services procurement under this chapter.

(j) *Notices Inviting Bids and Quotations.* Notices inviting bids or quotations shall be published at least five (5) days before the date of the opening of the bids in a manner which the Purchasing Agent determines is in the City's best interest to meet the purposes of this ordinance, including but not limited to publication on an electronic bulletin board, on the Internet, in commonly read trade publications, radio, television, cable television, or in a newspaper of general circulation in the City. Notices advertising pending procurements by bid or request for proposals under this Section 11-1-8 shall be posted on a public bulletin board in City Hall, and where practicable, shall be posted at least five days before the procurement is contracted for.

(k) *Tie Bids.* If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the Purchasing Agent determines that the City's interest is

better served by not re-advertising for bids, the City may require the tie bidders to submit a rebid within five (5) days.

#### **11-1-9. Relief Due to Computation Error.**

Any bidder who seeks to withdraw or modify a Bid because of inadvertent computational error shall notify the Purchasing Agent no later than three (3) working days following the bid closing. The bidder shall provide worksheets and such other information as may be appropriate or required by the City Purchasing Agent to substantiate the claim of inadvertent error. Failure to do so may bar such relief and allow recourse from the bid surety, in the discretion of the Purchasing Agent. The burden is upon the bidder to prove such error.

#### **11-1-10. Notice Inviting Bids or Proposals.**

Notice inviting bids or proposals shall include a general description of the articles to be procurement and shall state where bid blanks and specifications may be secured, and the time and place for opening bids, along with any other information which the Purchasing Agent deems appropriate.

#### **11-1-11. Construction Projects.**

(a) Municipal construction projects are governed by Section 10-7-20, Utah Code Annotated (1953), as amended. The requirement for obtaining payment bonds in municipal construction contracts is covered by Chapter 14-1, Utah Code Annotated.

(b) A City department head is authorized to approve extra work or change orders on City construction projects in an amount not to exceed 20 percent of the contract in the best interests of the City in the discretion of the department head. Notice of such provision may be included in the invitation for bids.

#### **11-1-12. Performance and bid bonds.**

Performance and bid bonds in such amounts as the Purchasing Agent determines are needed to protect the best interests of the City may be required by the Purchasing Agent. The nature, form and amount of such bonds shall be described in the notice inviting bids or in the request for competitive sealed proposals.

#### **11-1-13. Prequalification of Bidders, Proponents and Suppliers.**

Bidders, proponents and/or suppliers may be prequalified for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to prequalified suppliers.

(a) *Standard of Responsibility.* Factors to be considered in determining whether the standard of responsibility has been met by a bidder, supplier or proponent include:

(1) 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;

- (2) A satisfactory record of performance, including, but not limited to, the record of performance for the City or other governmental agencies, and debarment by any such agency;
- (3) A satisfactory record of integrity;
- (4) Legal qualifications to contract with the City; and
- (5) Whether all necessary information has been supplied in connection with the inquiry concerning responsibility.
- (6) Those considerations in respect to low responsible bidders in Section 11-1-8(g) above.

(b) *Information Pertaining to Responsibility.* The proponent, bidder or supplier shall supply information requested by the City concerning the responsibility of such bidder, proponent or supplier. If such information is not supplied, the City shall base the determination of responsibility upon any available information or may find the proponent, bidder or supplier nonresponsible if such failure, as determined by the City, is unreasonable.

#### **11-1-14. Cancellation and Rejection of Bids and Proposals.**

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the City in the reasonable discretion of the Purchasing Agent or the Department Buyer responsible for the purchase. The reasons for the cancellation shall be made part of the contract file.

#### **11-1-15. Records.**

Except when a longer minimum time is required by State law or City ordinance, the Purchasing Agent or Department Buyer making a procurement of more than \$5,000 shall keep records relating to the procurement for not less than one year from the time of the procurement.

#### **11-1-16. Procurement Protests.**

(a) Any actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or award of a contract for procurement may protest the procurement by filing a written protest with the Purchasing Agent. The protest shall contain the following information:

- (1) The protesting party's name, mailing address and daytime telephone number, the signature of the protesting party or the attorney for the protesting party, and the date the protest is signed; and
- (2) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.

(b) Protests shall be submitted prior to the closing date for receiving bids or proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all protests shall be submitted within five days

after the closing date for receiving bids or proposals.

(c) The City may proceed with the procurement except that the Purchasing Agent may suspend the procurement process for so long as he or she determines is appropriate.

(d) The Purchasing Agent may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the Purchasing Agent.

(e) The Purchasing Agent or the Purchasing Agent's designated representative may request additional information from the protesting party or from other persons to make a determination. The protesting party shall provide all information requested by the Purchasing Agent reasonably needed to decide the protest except information which is protected from disclosure by law, or which could reasonably be expected to result in unfair competitive injury to the protestor in spite of the protections for the protestor provided by law, including the Utah Government Records Access Management Act, Chapter 63-2, Utah Code Annotated.

(f) The Purchasing Agent shall review and decide protests, and shall issue a written determination to the protester party within fifteen days of receipt of the protest.

(g) The protesting party may appeal the written decision of the Purchasing Agent by filing a written appeal with the Director of Finance. The notice of appeal shall contain the following information:

(1) The petitioner's name, mailing address and daytime telephone number, the signature of the petitioner or of the attorney for the petitioner, and date; and

(2) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review .

(h) The Director of Finance or another person selected by the Mayor or City Administrator shall review and hear the appeal. No later than five days after receiving a notice of appeal, the Director shall schedule a hearing on the appeal. Unless otherwise agreed to by the City and the petitioner, the hearing shall be held no sooner than five days and not later than 30 days from the date of the filing of the appeal.

(i) At the hearing before the Director, the appellant and the City's representative shall be allowed to testify, present evidence, and comment on the issues under the direction of the committee chairman. The Director may allow other interested persons to testify, comment or provide evidence on the issues.

(j) No later than fifteen business days after the hearing, the Director shall issue a signed order either granting the petition in whole or in part, or upholding the determination of the Purchasing Agent in whole or in part. The order of the Director shall include:

1. The decision, and any reasons for the decision the committee may wish to provide; and

2. A statement that any party to the appeal may appeal the decision to the State district court.

(k) If the Director fails to issue a decision within fifteen business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

(l) The Mayor or the City Administrator may appoint a person other than the Purchasing Agent or the Director of Finance to fulfill their respective responsibilities described in this section.

#### **11-1-17. Ineligibility.**

In addition to all other remedies permitted by law, the Mayor or the City Council may declare a bidder or contractor ineligible to bid on City procurement and public works contracts for a period not to exceed five years for any of the following grounds: two or more claims of computational error in bid submission within a two-year period; a not-reasonably-justified refusal to provide or execute contract documents; unsatisfactory performance of contract; unjustified refusal to perform or complete contract work or warranty performance; unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract; conviction under state or federal statutes for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime or offense indicating a lack of business integrity and which would directly affect the reliability and credibility of performance of such a vendor or contractor with future contracts with the City; or, based on the limited department by another government agency.

#### **11-1-18. Penalties.**

Collusion among Bidders. Any agreement or collusion among bidders or prospective bidders is a restraint of freedom of competition and any agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void.

#### **11-1-19. Right to Inspect Place of Business.**

Gratuities. The acceptance of any gift, benefit or gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the City from a vendor or contractor, or prospective vendor or contractor, which would reasonably be expected to substantially influence the actions of the official or employee in favor of the giver in future procurements or negotiations may be deemed to be a violation of this ordinance and may be cause for removal or other disciplinary action.

#### **11-1-20. Personal Purchases.**

Procurements of goods and services ordered on City credit or paid for by the City which are for the personal use of an official or employee of the City shall not be delivered, or if delivered, may be void or voidable at the City's option. Such personal procurements shall not be permitted and may be considered cause for disciplinary action. City officers and employees may purchase goods or services for personal use from suppliers at discounted rates offered to the City where the supplier makes such goods or services available to all City officials and employees on the same terms, provided the official or employee pays for such items from the official's or employee's own money, and provided the purchase is not reasonably likely to improperly influence the official, employee or a City department in the discharge of their duties or in making purchases of supplies or services.



The City may, at reasonable times, inspect the part of the plant or place of business of a contractor, or any subcontractor which is related to the performance of any contract awarded or to be awarded by the City.

**11-1-21. Allowable Incurred Costs.**

The City may allow the reimbursement of costs reasonably and necessarily incurred by a contractor or according to the terms of written contract with the City.

**11-1-22. Cost-Plus-Percentage-of-Cost Contract Prohibited Except When Determined Less Costly.**

Subject to the limitations of this section or other applicable law, any type of contract which will promote the best interests of the City may be used; provided that a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing by the Mayor, City Administrator, or Purchasing Agent, the Department Buyer, or the department head, that such contract is likely to be less costly to the City than any other type, or that it is impracticable to obtain the supplies, services or construction required except under such a contract.

**11-1-23. Sales of Goods or Services to the City by Officials or Employees.**

City officials and employees may sell goods or services to the City under the following conditions:

(a) An employee or the employee's spouse, parent, children, or siblings may not sell goods or services to the employee's department unless the sale is first approved in writing by the department head, and either the Mayor or City Administrator;

(b) All such transactions are subject to applicable provisions regarding ethics or municipal officials and employees of the Utah Code Annotated.

**11-1-24. Surplus Real and Personal Property.**

(a) Definitions as used in this section:

(1) "Dispose" or "disposal" means to sell, lease, trade, gift, convey, or encumber surplus property.

(2) "Exchange" means transactions where surplus property is transferred as a full or partial consideration for the transfer to the City of other property.

(3) "Highest and best return" means maximizing economic return to the City as estimated by one or more of the following methods:

- (A) Competitive bid which may include electronic auction;
- (B) Evaluation by a qualified and disinterested appraiser;
- (C) Other professional publications and valuation services; or
- (D) An informal market survey by the City's Purchasing Agent (Purchasing

Agent) in the case of items of property possessing readily-discernible market value.

(4) “Property” means real and personal property.

(5) “Reasonable notice” means publication in a newspaper or newsletter of general circulation within the City, posting in public places within the City, Internet posting on the City’s Website, publication on the City’s government and education cable television channel, or other means of notification accessed by City residents.

(6) “Significant parcel of real property” means City owned real property whose reasonable estimated value exceeds \$40,000.

(7) “Surplus property” means City property that is so used, obsolete, depreciated, excess or is no longer necessary to current and projected needs as to be unfit or undesirable for use or retention by the City.

(b) The Purchasing Agent shall dispose of surplus property pursuant to existing State law and as follows:

(1) All department heads shall, from time to time, identify and give notice in a signed writing to the City’s Chief Administrative Officer (CAO) and the Purchasing Agent of surplus property within the control of that department.

(2) Whenever the surplus property is real property, or personal property with a reasonable estimated value of more than \$2,000, prior to its disposal the CAO or his designee shall disclose the disposal to the Mayor’s cabinet.

(3) Before any disposal of a significant parcel of real property, the City shall allow an opportunity for public comment on the proposed disposal providing reasonable notice at least 14 days before such public comment.

(4) The Purchasing Agent shall dispose of the surplus property in a method likely to produce the highest and best return unless in the opinion of the Purchasing Agent:

(A) the value of the surplus property is considered negligible in relation to the time, labor and expense of competitive bidding or bidding procedures are deemed unlikely to produce a competitive offer, or

(B) the surplus property is disposed to units of government or other public or charitable organizations pursuant to existing State law.

(5) When any surplus property has been disposed, the monies or credit there for shall be credited:

(A) to the City department or City office which requested its disposal if the disposal has been contemplated in the current annual budget,

(B) to the City’s general fund if the disposal has not been contemplated in the current annual budget, or

(C) to a revenue account within the specific enterprise fund if originally procured from an enterprise fund or from properties attributable by the Mayor to use by an existing enterprise fund.

(6) The Finance Director shall report any disposal of surplus property to the City Council in the Comprehensive Annual Financial Report.

(c) Notwithstanding the provisions of this section:

(1) Every conveyance or encumbrance of City property shall be made by the Mayor, or under the Mayor's express written authority, and pursuant to existing State law.

(2) The City may impose limitations or conditions on the future use of surplus property, in addition to those required under other Titles of City ordinances, which limitations or conditions must be disclosed by the Purchasing Agent prior to its disposal.

(3) No provision of this section shall be construed to require or to invalidate any sale, conveyance, transaction, transfer or encumbrance by the City, nor to vest rights of action of any kind against the City, its officers, agents or employees.

#### **11-1-25. Participation by Bidder Who Supplies Specifications.**

A person other than a City employee who has prepared specifications used substantially by the City in determining from which bidder or proponent it wishes to purchase goods or services may participate in a bid or proposal procurement in the City where the Purchasing Agent determines in his or her reasonable discretion that such participation will be in the best interest of the City in light of the stated purposes of this chapter contained in Section 11-1-1. A City employee who has prepared specifications used substantially by the City in determining the bidder or proponent from which it wishes to purchase goods or services may participate as a bidder or proponent in a bid or proposal procurement by the City when the Purchasing Agent determines in his or her reasonable discretion that doing so is fair and in the best interests of the City in light of the purposes of this ordinance.

#### **11-1-26. Period of Time for Contract of Supplies.**

(1) Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the City; provided that the term of the contract and conditions of renewal or expansion, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

(2) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. The contractor may apply for reimbursement for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract, which may be awarded in the reasonable discretion of the Purchasing Agent. The cost of cancellation may be paid from any appropriations available for that purpose.

### **11-1-27. Alternative Methods of Construction.**

The City may contract for any method of construction management allowed by law in the reasonable discretion of the department head responsible for the construction, or the Purchasing Agent.

### **11-1-28. Failure to Follow Ordinance.**

The failure to follow any provision of this ordinance shall not render a procurement invalid, nor give a bidder or proponent a claim or right against the City or the employee responsible for such failure.

## **Chapter 2      LOST, ABANDONED OR UNCLAIMED PROPERTY**

### **11-2-1. Disposition of Lost, Abandoned or Unclaimed Property.**

It shall be the duty of the Chief of Police to keep all lost, abandoned or unclaimed property which comes into the possession of the Police Department or any of its members and he shall make all reasonable efforts to identify and locate the owner or owners thereof and restore said property to such owner.

### **11-2-2. Definitions.**

- (a) Abandoned Property is personal property found under circumstances reasonably indicating that the owner does not intend to control or possess it.
- (b) Lost Property is personal property the location of which is unknown to the owner.
- (c) Unclaimed Property is personal property held by the Police Department for a period of three months or more and is unclaimed within that period by the owner; or, is personal property held by the police in connection with a court proceeding, the disposition of which is not otherwise determined by law or court order, and is unclaimed by the owner within a period of three months following the end of said court proceeding.

### **11-2-3. Identified Owner.**

Whenever the owner of lost, abandoned, or unclaimed property is identified and located, the Chief of Police shall send by way of registered letter, written notice to the owner, describing the property, giving its present location, stating the circumstances under which he came into possession thereof, and giving notice to the owner that he must claim his property within the

time provided by this notice or the property will be disposed of as hereinafter provided.

**11-2-4. Advertising Property.**

If the owner of lost, abandoned, or unclaimed property fails to claim such property within fifteen days after the receipt of notice, or is not identified and located within a period of three months, the Chief may compile a list of said property for distribution to other City departments as stated in the next following section. If, after thirty days of notifying other City departments of available property, there is still property for sale, the Chief may advertise the sale of such property for at least five days in a newspaper of general circulation in the City and may, on the date specified in such advertisement, offer the property to the public at public auction. The time of the public sale shall be scheduled for a date not more than thirty days after published notice of the sale has been completed.

**11-2-5. Notifying City Departments.**

The Chief shall also mail the above-described list of all lost, abandoned, or unclaimed property which is available for public sale to the Purchasing Department. The Purchasing Department will then notify the other City departments of the property offered for public sale.

**11-2-6. Requests for Use of Property.**

If a City department wishes to utilize any of the lost, abandoned, or unclaimed property offered for sale, then a written request stating which property is needed shall be forwarded to the Police Department and the Purchasing Department not later than seven days before the public sale.

**11-2-7. Joint Committee to Review Requests.**

A joint committee comprised of an authorized representative from the Police Department and an authorized representative from the City Purchasing Department shall then review departmental requests for the use of property and shall determine which department, if more than one request for the same property is received, shall be assigned the property. The remaining advertised property will then be offered for public sale on the published date. Provided, however, that this joint committee may authorize the Police Department to destroy or otherwise dispose of any property subject to this ordinance where such property is determined valueless or of such little value that the costs of conducting a sale and advertising would exceed the amount realized therefrom.

**11-2-8. Sale of Firearms.**

**11-2-9. Donated or Destroyed Property.**

All advertised lost, abandoned, or unclaimed property remaining unsold or unassigned for Departmental use under the preceding sections of this ordinance may then either be destroyed or

donated to public or private charities as directed by the joint committee.

**11-2-10. Report to the Recorder by Committee.**

The joint committee shall make a report to the City Recorder, at the time of sale or disposition, containing: a listing of property sold or distributed under the provisions of this chapter; the amount of money received from public sales; and the fair market value, estimated by the joint committee, of any property distributed for use by a City department.

**11-2-11. Separate Fund for Monies Received.**

All money from the public sale of lost, abandoned or unclaimed property shall be kept in a separate fund credited to the City.

**11-2-12. Reclaiming of Property by Owner.**

If the owner, his legal representative or successor, of any lost, abandoned, or unclaimed property sold at auction or utilized by a City department demands his property within three years from the date the property was received by the Police Department, the City Treasurer shall pay to him after deducting the fees and expenses of the City in relation to the matter, the proceeds of the public sale or, if the property was assigned for use by a City department, the fair market value of the property.

**11-2-13. Failure to Claim Property by Owner.**

If the owner, his legal representative or successor of any lost, abandoned, or unclaimed property sold at auction does not claim the proceeds from the sale of his property within three year period, the proceeds from the public sale shall revert to the City General Fund.

**11-2-14. Chief of Police to Act as Depository.**

The Chief shall have the power to receive lost, abandoned, or unclaimed tangible or intangible property from a private citizen. He shall then make reasonable efforts to locate the owner of said property, but, if after three months, the owner has not been located or this property claimed, the property shall be returned to the citizen. If the citizen disclaims the property, then the property shall be distributed according to the provisions of this chapter.

## **Chapter 3 CONSTITUTIONAL TAKINGS**

**11-3-1. Purpose/Intent.**

Private property owners should be treated fairly and should not be unconstitutionally deprived of real property interests without just compensation. This chapter shall be construed to provide for the objective and fair review of claims by persons asserting deprivation of

vested real property rights or interests, without just compensation. Nothing contained herein shall be construed to limit the ability of the City to lawfully fulfill its duties and functions.

### **11-3-2. Review of Decision by Mayor.**

Any owner of private real property or a real property right who claims there has been an unconstitutional taking of their property, without just compensation, shall petition for a review of a final decision of any City officer, employee, board, commission, or the Council. Consistent with the separation of powers which is integral to the City's form of government, the Council hereby designates the Mayor to hear and consider such petitions. The Mayor may delegate such responsibility to another individual or board.

### **11-3-3. Review Procedures.**

The following procedures for review of a final decision shall be followed:

(1) Final Decision. The person petitioning for review shall obtain a final decision before requesting review.

(2) Petition for Review. Within fifteen (15) days from the date of the final decision, the person requesting the review shall file, in the office of the City Recorder, a written petition for review of that decision. A copy shall also be filed with the City Attorney.

(3) Hearing Date. The Mayor, or the Mayor's designee, shall set a time to review the decision that gave rise to the petition as soon as reasonably practical. The Mayor, or the Mayor's designee, shall hear and consider the evidence related to and submitted by the petitioner, the City, and other parties whom the City determines have an interest in the proceedings,. In the discretion of the Mayor, or the Mayor's designee, the hearing may be oral or based upon written submittals.

(4) Applicant Information Submittal.

(a) *Initial Filing Information.* In addition to the petition for review, the petitioner shall submit, within 7 days prior to the date of the review, the following:

- (i) The name of the petitioner requesting review;
- (ii) The name and business address of the current owner of the property; the form of ownership, i.e. whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other; and if owned by other than a real person, the name and address of all partners or shareholders owning 10% or more of the outstanding shares;
- (iii) A detailed statement of the factual and legal grounds for the claim that there has been a unconstitutional taking, without just compensation;
- (iv) A legal description of the property allegedly taken and a detailed

description of the nature of the property; and

- (v) A detailed description of the protectable property interest claimed to be affected.

(b) *Supplemental information.* If the Mayor or the Mayor's designee determines that there may be an unconstitutional taking, and additional information is needed, in his sole discretion, the Mayor, or the Mayor's designee, may further require the following to be submitted:

- (i) The evidence and documentation as to the value of the property interest claimed taken, including the date and cost at the date the property was acquired. This material should include any evidence of the value of that same property before and after the alleged unconstitutional taking; the name of the party from whom purchased, including the relationship, if any, between the person requesting a review; and the party from whom the property was acquired;
- (ii) The terms, including sale price, of any previous purchase or sale of a full or partial interest in the property during the three years prior to the date of application;
- (iii) All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application;
- (iv) The assessed value of and ad valorem taxes on the property for the previous three years;
- (v) All information concerning current mortgages or other loans secured by the property, including the name of the mortgagee or lender, current interest rate, remaining loan balance, term of the loan and other significant provisions, including but not limited to, the right of purchasers to assume the loan;
- (vi) All listings of the property for sale or rent, price asked and offers received, if any, within the previous three years;
- (vii) All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
- (viii) For income-producing property, itemized income and expense statements from the property for the previous three years;
- (ix) Information from a title policy or other source showing all recorded liens or encumbrances affecting the



property; and

- (x) The Mayor, or the Mayor's designee, may request additional information reasonably necessary, in their opinion, to arrive at a fair and well supported conclusion concerning the nature of and the value of the alleged unconstitutional taking.

#### **11-3-4. Reviewing Guidelines.**

The Mayor or the Mayor's designee shall review the facts and information presented by the petitioner, the City, and other parties whom the City determines have an interest in the proceedings, and determine if the action by the City constitutes an unconstitutional taking. The City Attorney's office may serve as the City's legal counsel. The Mayor, or the Mayor's designee shall review the facts in light of the applicable state and federal constitutional law.

#### **11-3-5. Time for Final Decision.**

If the Mayor, or the Mayor's designee, fails to hear and decide the petition within 14 days after the filing of the petition, the administrative decision of the City officer, employee, board, commission, or the Council shall be deemed approved; provided, however, the Mayor, or the Mayor's designee, may extend the time to reach a decision, not exceeding an additional 120 days following the receipt of the petitioner's submissions required in Section 11-3-3.

#### **11-3-6. Results of Review.**

After completing the review the Mayor or the Mayor's designee shall make a determination regarding the petition and may in his or her discretion make a recommendation to the Council or the appropriate officer, employee, board, commission.

#### **11-3-7. Guidelines Advisory.**

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the City's liability for an unconstitutional taking of a property interest. The decision rendered pursuant to the provisions of this chapter are not admissible in court for any purpose other than to demonstrate that the petitioner has exhausted the requisite administrative remedies, and in no event shall any recommended compensation be admissible into evidence.

#### **11-3-8. Severability.**

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.