

TITLE III: ADMINISTRATION

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CHAPTER 30: MAYOR AND COUNCIL; MEETINGS

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MEETINGS

§ 30.01 TIME, PLACE; EXCEPTIONS.

(A) The governing body shall hold one regular meeting, which shall be held as set by resolution.

(B) If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the next following day which is not a legal holiday.

(C) The governing body may, by resolution, provide for a different time and place for holding regular meetings of the governing body.
(Prior Code, § 3-502)

§ 30.02 AGENDA.

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the governing body at a Town Council meeting shall be delivered to the Clerk at least two days prior to each governing body meeting, whereon the Clerk shall arrange a list of such matters according to the order of business and give notice to the public of the contents of said list, hereinafter agenda, in accordance with the State Open and Public Meetings Act, UCA §§ 52-4-1 et seq. Said agenda shall be posted not less than 24 hours before the meeting. Only the matters specifically identified on the agenda shall be decided by the governing body, unless other matters are decided on an emergency basis in accordance with the above-referenced statute.
(Prior Code, § 3-503)

§ 30.03 SPECIAL MEETINGS.

(A) The Mayor, or any two members of the governing body may order a special meeting of the governing body by delivering a written notice of the special meeting signed by him or her or them to each member who did not join in the order, leaving a copy of the notice at the member's usual place of abode at least three hours prior to such meeting. The personal appearance by a member constitutes a waiver of the notice required by this section.

(B) The written notice required in this section shall state the time and place the special meeting is to be held and the purpose for which the special meeting is being called.
(Prior Code, § 3-504)

ELECTIONS**§ 30.15 ELECTIONS.**

(A) Election for Mayor and Council members shall be conducted according to the municipal election section of UCA § 20A-9-404(1) and (2).

(B) This section provides for the candidates for Mayor and Council members to be nominated at a primary election if required. A primary election will be held only when the number of candidates filing for office exceeds twice the number to be elected. The candidates nominated at the primary election, plus candidates that were not required to run in the primary, are to be placed on the November ballot.
(Prior Code, § 4-000)

Statutory reference:

Elections, see UCA §§ 20-5-1 et seq.

CHAPTER 31: OFFICIALS AND EMPLOYEES

Section

- 31.01 Compensation and salaries
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§ 31.01 COMPENSATION AND SALARIES.

(A) The salary of the officers and employees of this town shall be paid in the amount as set by Town Council from time to time.

(B) In addition to the salary paid the officers and employees of this municipality, they shall receive the following benefits:

(1) The employee's share of the Social Security tax;

(2) Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the governing body may from time to time establish by resolution;

(3) Vacation and sick leave on such basis as the governing body may from time to time establish by resolution; and

(4) Participation in the state retirement program on such basis and cost as the governing body may from time to time by resolution establish.

(C) Whenever any person serves in two or more positions, either as officers or employees of this municipality, unless otherwise specifically provided in the employment agreement, by ordinance or resolution, the person shall receive the salary or compensation of the office or employment paying the greater amount.

(D) In addition to all other compensation or salaries, any officer or employee of this municipality may receive, following the submission to the Town Clerk of a claim, travel expenses and per diem established by the State Department of Finance for expenses actually incurred by the person for attending any meeting, conference, seminar or training session, provided attendance shall have been approved by the governing body.

(Prior Code, § 3-818)

§ 31.02 AMOUNT OF BOND.

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(A) Before taking the oath of office and entering on the duties of their respective office, the following named town officials shall each give a bond with good and sufficient securities payable to the town conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinance of this town in amounts required by law.

(B) The Treasurer's bond shall be superseded by any rules, regulation or directive of the State Money Management Council when such rule, regulation or directive is binding on this town.

(C) The premium charged by any corporate surety for any bond required in this section shall be paid by this town.

(D) The bond required in this section may be a blanket bond.
(Prior Code, § 3-819)

CHAPTER 32: COURTS

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Justice of the Peace

- 32.01 Justice of the Peace to be appointed
- 32.02 Vacancy or disqualification
- 32.03 Records
- 32.04 Disposition of funds
- 32.05 Salary

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- 32.20 Jurisdiction
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- 32.23 Process and warrants
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- 32.35 Contempt for which the Justice of the Peace may punish
- 32.99 Penalty

JUSTICE OF THE PEACE

§ 32.01 JUSTICE OF THE PEACE TO BE APPOINTED.

The Mayor, with the advice and consent of the Town Council, shall appoint a Town Justice of the Peace, to serve a term of four years, with the term to begin the first Monday of February 1984. The Justice of the Peace shall be the Judge of the Town Justice Court and shall have all power and authority granted to that court by state law.

(Prior Code, § 5-110)

§ 32.02 VACANCY OR DISQUALIFICATION.

(A) If a vacancy should occur in the office of the Justice of the Peace, the Mayor, with the advice

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and consent of the Town Council, shall fill such vacancy by appointment for the unexpired term.

(B) The person so appointed shall qualify in the same manner as a Municipal Justice, and shall have and exercise all the powers conferred by law upon such Municipal Justice. In case the Justice shall for any reason be unable or disqualified to perform the duties of his or her office, or shall be absent, the Mayor, with the advice and consent of the Town Council, shall appoint some other Justice of the Peace presiding within the county to act as the Justice of the Peace Pro Tempore and he or she shall have and discharge the duties such Justice might have, but during the existence of such disability or absence only.

(C) Whenever there is a vacancy in the office of Justice of the Peace, the town may contract with the county or with another municipality to share the services of Justice of the Peace. The contract shall be for the same term as the term of the Justice whose services are sought. The town may contract for the services of the County or Municipal Justice during his or her entire term at any time there is a vacancy in the office of Justice. Vacancies may be created by refusing to reappoint a person to the office of Justice of the Peace.

(Prior Code, § 5-111)

§ 32.03 RECORDS.

The Justice of the Peace for the town shall maintain accurate and complete records of all business transacted in his or her court. Such records shall be deposited with the Town Clerk on quarterly basis, unless a different requirement is established by state law or a resolution of the Town Council. The Justice shall also make such other reports as are requested by the governing body of the town.

(Prior Code, § 5-112)

§ 32.04 DISPOSITION OF FUNDS.

All fines, fees, forfeitures or any other sums collected by the Justice of the Peace shall be paid to the Town Treasurer within seven days of the receipt of such funds by the Justice of the Peace.

(Prior Code, § 5-113)

§ 32.05 SALARY.

The salary of the Justice of the Peace for the town shall be established by a resolution of the governing body and shall be paid out of the Town Treasury. The said salary shall be reviewed when required by state law or whenever thought appropriate by the governing body of the town and shall be readjusted in accordance with the number of hours and days that the Town Justice Court is in session.

(Prior Code, § 5-114)

JURISDICTION AND PROCEDURE

§ 32.20 JURISDICTION.

The Town Justice of the Peace shall have exclusive original jurisdiction over criminal cases arising from the violation of any town ordinance. The Justice of the Peace shall have such other jurisdiction over criminal and civil cases and small claims actions as is permitted by applicable state law.
(Prior Code, § 5-210)

§ 32.21 JURY TRIAL.

The right of jury trial shall be held inviolate in the Town Justice Court. However, in any case in which a party does not, under the Constitution of the United State of the Constitution or laws of the state, have a right to a jury trial, the case shall be tried by the Justice of the Peace without a jury. In all other cases where there is such a right to a jury trial, the jury trial shall be deemed waived unless demanded by a party defendant or a plaintiff to the action at least ten days prior to trial. Selection and summoning of jurors shall be as provided by state law or Justice Court.
(Prior Code, § 5-211)

§ 32.22 RULES OF PROCEDURE.

The procedure in the Town Justice Court shall be governed by the State Rules of Civil Procedure and the State Code of Criminal Procedure. The Justice of the Peace may promulgate such additional rules as are necessary and proper for the orderly functioning of the court.
(Prior Code, § 5-212)

§ 32.23 PROCESS AND WARRANTS.

All warrants or other process issued from the Town Justice Court shall be directed to the County Sheriff, any Constable of the county, the Chief of Police or Town Marshal, and shall be served in accordance with applicable state law or the order of the court.
(Prior Code, § 5-213)

§ 32.24 RULES OF EVIDENCE.

The State Rules of Evidence shall apply in all proceedings in the Town Justice Court. The Justice of the Peace shall take all evidence in accord with the provisions of those rules.
(Prior Code, § 5-214)

CONTEMPT**§ 32.35 CONTEMPT FOR WHICH THE JUSTICE OF THE PEACE MAY PUNISH.**

The Justice of the Peace of the Town Justice Court may punish for contempt, persons guilty of the

following acts and such other acts as are punishable under state law:

(A) Disorderly, contemptuous or insulting behavior toward the Justice while in court, tending to interrupt the due course of the trial or other judicial proceedings;

(B) Breaches of the peace, boisterous conduct or violent disturbance in the presence of the Justice Court, or its immediate vicinity, tending to interrupt the due course of the trial or other judicial proceedings;

(C) Disobedience or resistance to the execution of the lawful order or process issued from the Justice Court;

(D) Disobedience to a subpoena duly served, or refusing to be sworn or to answer questions as a witness; and

(E) Rescuing or attempting to rescue any person or property in the custody of an officer by virtue of an order or process of Justice Court.
(Prior Code, § 5-310) Penalty, see § 32.99

§ 32.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Penalty for contempt.* Any person guilty of contempt may be punished by a fine in any amount not to exceed \$100 or by imprisonment, for a period not to exceed one day, or by both such fine and imprisonment.
(Prior Code, § 5-311)

CHAPTER 33: FINANCE AND TAXATION

Section

Sales and Use Tax

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- 33.02 Contract with state
- 33.03 Sales tax levied
- 33.04 Use tax

SALES AND USE TAX**§ 33.01 PURPOSE.**

The purpose of this chapter is to levy a 58/64 of 1% sales and use tax through December 31, 1989, and a 63/64 of 1% from and after January 1, 1980, in compliance with the provisions of the Uniform Local Sales and Use Tax Law, UCA §§ 59-12-201 through 59-12-208, and in compliance with the applicable provisions of UCA Title 59.
(Prior Code, § 6-201)

§ 33.02 CONTRACT WITH STATE.

The existing contract between the town and the State Tax Commission, which provides that the Commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this municipality, is hereby declared to be in full force and effect.
(Prior Code, § 6-202)

§ 33.03 SALES TAX LEVIED.

(A) *Levy of tax.* There is hereby levied a tax upon every retail sale of tangible personal property, services and meals made within the town at the rate of 58/64 of 1% through December 31, 1989 and 63/64 of 1% after January 1, 1990.

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(B) *Situs of levy.* For the purposes of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. If a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the State Tax Commission. Public utilities, as defined by UCA Title 54, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the municipality shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(C) *Application of state sales tax provisions.* Except as hereinafter provided, and except insofar as otherwise inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of the state, all of the provisions of UCA Title 59, Chapter 12, and in force and effect on the effective date of this subchapter insofar as related to sales taxes, and except for the amount of the tax levied therein, are hereby adopted and made a part of this subchapter.

(D) *Substitution of town for state.* Whenever, and to the extent that UCA Title 59, Chapter 15, the state is named or referred to as the taxing agency, the name of this town shall be substituted therefor. Nothing in this division (D) shall be deemed to require substitution of the name of the town for the word "state" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the state, nor shall the name of the municipality be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the municipality or any agency thereof, rather than by or against the State Tax Commission in performing the functions incidental to the administration or operations of this subchapter.

(E) *Additional license not required.* If an annual license has been issued to a retailer under UCA § 59-15-3, an additional license shall not be required by reason of this section.

(F) *Exemptions.* There shall be excluded from the purchase price paid or charged by which the tax is measured:

(1) The amount of any sales or use tax imposed by the state upon a retailer or consumer; and

(2) Receipts from the sale of tangible personal property upon which a sales or use tax has become due by reason of the same transaction to any other town and any county in the state, under a sales or use tax ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax Law of the state.

(Prior Code, § 6-203)

§ 33.04 USE TAX.

(A) *Levy of tax.* An excise tax is hereby levied on the storage, use or other consumption in this town of tangible personal property purchased from any retailer on or after the operative date of this subchapter for storage, use or other consumption in the town at the rate of 58/64 of 1% of the sales price of the property.

(B) *Application of state use tax provisions.* Except as hereinafter provided, and except insofar as inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of the state, all of the provisions of UCA Title 59, Chapter 15, and in force and effect on the effective date of this subchapter, applicable to use taxes, excepting provisions of UCA §§ 59-16-1 and 59-16-25 thereof, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this section.

(C) *Substitution of town for state.* Wherever and to the extent that in UCA Title 59, Chapter 16, the state is named or referred to as the taxing agency, the name of this town shall be substituted therefor. Nothing in this division (C) shall be deemed to require the substitution of the name of this town for the word “state” when that word is used as part of the title of the State Tax Commission, or the Constitution of the state, nor shall the name of this town be substituted for that of the state in any section when the results of that substitution would require action to be taken by or against this town or any agency thereof, rather than by or against the State Tax Commission in performing the functions incidental to the administration or operation of this chapter.

(D) *Exemptions.* There shall be exempt from the tax due under this section:

(1) The amount of any sales or use tax imposed by the state upon a retailer or consumer; and

(2) The storage, use or other consumption of tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax Law of the state by any other municipality and any county of the state.

(Prior Code, § 6-204)

CHAPTER 34: TOWN PROPERTY; CEMETERY

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CONTROL OF TOWN PROPERTY**§ 34.001 UNLAWFUL USE.**

Unless authorized by permit or other written authorization issued by the town, or unless authority is granted by provisions of this code or other ordinance of the town now or hereafter enacted, it shall be a Class B misdemeanor for any person to:

(A) Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by this town or utility, canal, ditch, construction or building;

(B) Enter upon any property of this town contrary to posting or marking restricting or prohibiting use of the area; or

(C) Intentionally use or perform acts upon property of the town which materially impairs, alters or damages the property.

(Prior Code, § 8-111) Penalty, see § 10.99

§ 34.002 FRANCHISE.

(A) The governing body may grant any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for the other use of the property of this town, and the provisions of § 34.001 and this section shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.

(B) Any franchise or easement granted by this municipality shall be in writing and any franchise or easement not in writing shall be void.

(Prior Code, § 8-112)

§ 34.003 ACTS EXEMPTED.

It shall not be a violation of this subchapter where any person uses the public property of this town in the manner or for the purposes for which such property has been made available for public use.

(Prior Code, § 8-114)

CEMETERY

§ 34.015 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DIRECT DESCENDANT. A direct descendant (natural or adopted issue) of the named person on a “Grandfathered Family Plot”.

GRANDFATHERED FAMILY PLOT. Two or more contiguous plots that the burial rights were purchased prior to the adoption of this amended ordinance dated November 8th, 2023, by parents for theirs and their direct family members use without recording an individual name for each plot.

IMMEDIATE FAMILY MEMBERS. Parents and their natural or adopted issue.

LOT. Includes the partial lots or single graves in the municipal cemetery.

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LOT OWNER or **PURCHASER** and **GRAVE OWNER OR PURCHASER.** The owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a deed or burial right of use of any burial lot evidenced by a deed or burial right for a described lot or by proved and recognized descent or devise from the original owner.
(Prior Code, § 8-201)

NON-RESIDENT. An individual who does not have his/her primary permanent residence in the Town of Paragonah.

RESIDENT. A member of a household whose primary place of residence can be shown to be established in the Town of Paragonah, Utah, or had been a resident in the Town of Paragonah for a minimum of two (2) years before entering a necessary care home or facility outside of the Town of Paragonah.

§ 34.016 NAME.

The burial ground of this town shall be known and designated the name of “Paragonah Cemetery.”
(Prior Code, § 8-202)

§ 34.017 CEMETERIES COVERED.

All cemeteries owned and/or maintained by the town wherever situated are hereby declared subject to the provisions of this chapter.
(Prior Code, § 8-203)

CEMETERY SUPERINTENDENT**§ 34.030 OFFICE OF CEMETERY SUPERINTENDENT.**

There is hereby created the position of Cemetery Superintendent.
(Prior Code, § 8-211)

§ 34.031 DUTIES OF THE CEMETERY SUPERINTENDENT.

The Cemetery Superintendent shall have the general supervision and administration of the town cemetery, including, but not limited to:

(A) Recommending to the governing body such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery;

(B) Subdividing the cemetery into lots and grave sites;

(C) Maintaining a record of the location of graves and preventing any lot from being used beyond its capacity;

(D) Keeping in proper repair the enclosure around the cemetery and preventing its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein;

(E) Keeping a duplicate plat of the cemetery and, at the request of any person wishing to purchase any of the lots or parts of lots, pointing out any of the lots or parts of lots for sale; and upon disposal of any lots or part thereof, notifying the Clerk of such fact. The Clerk shall, after payment of the lot price has been received in the treasury, issue a certificate of burial rights, which shall describe the lot or grave to which the right to burial is granted. The certificate shall be signed by the Mayor and the Clerk;

(F) Opening any graves in the cemetery upon application to him or her being made by the Clerk or by any person having the right to make such application and being responsible for closing all graves;

(G) Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be removed sooner than five days after original placement except in emergency;

(H) Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed; and

(I) Erecting a suitable marker firmly set upon the northwest corner of each lot with the number of the lot inscribed thereon and which location shall be shown on the cemetery records.
(Prior Code, § 8-212)

REGULATION OF CEMETERY AND BURIALS

§ 34.045 BURIALS.

Before any deceased person is buried in the town cemetery, a permit properly issued by the registrar of the registration district in which the death occurred or, in the absence of such registrar, a permit duly issued by the State Division Cemetery Superintendent. After burial, the Cemetery Superintendent shall endorse upon the permit a description of the location where the deceased is buried and shall enter all the information contained in the permit in the cemetery records.

(Prior Code, § 8-221) Penalty, see § 10.99

§ 34.046 BURIAL PERMIT.

It shall be unlawful for any person to bury the body of a deceased person in the town cemetery without first obtaining a certificate of burial right for the lot used or producing satisfactory evidence of the right to burial based on a properly acquired certificate of burial right.

(Prior Code, § 8-222) Penalty, see § 10.99

§ 34.047 REGISTRATION OF BURIALS.

Before any deceased person may be buried in the town cemetery, the relatives or person having charge of the deceased shall provide the Clerk with a written statement, which shall be filed by the Clerk, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date and cause of death, the name of the attending physician, date of burial, name of cemetery and the description of the location of the grave.

(Prior Code, § 8-223) Penalty, see § 10.99

§ 34.048 BURIALS AND DISINTERMENT.

(A) It is an infraction for any person to:

(1) Disinter any body buried in any cemetery, except under the direction of the Cemetery Superintendent who shall, before disinterment, require a written permission from both the Municipal Health Officer and the owner of the lot or his or her heirs, which written authorization shall be filed and preserved in a record kept for such purposes; and/or

(2) Disinter or remove the body of a person who has died from a contagious disease within two years after the date of burial, unless the body was buried in a hermetically sealed casket or vault and is found to be so incased at the time of disinterment.

(B) It is an infraction to inter anything other than the remains of human bodies in cemeteries.

(C) It is an infraction to bury the body of any person within this town except in the town cemetery or a private cemetery, unless by special permission of the governing body under such rules and regulation that it may prescribe.

(Prior Code, § 8-224) Penalty, see § 10.99

§ 34.049 VAULTS REQUIRED.

(A) Unless in writing waived by the Cemetery Superintendent, it shall be unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel or brick-lined or of such other material approved by the governing body, substantially constructed and covered with a similar durable material.

(B) No wood shall be used as a permanent part of the construction of any part of the vault.
(Prior Code, § 8-225) Penalty, see § 10.99

§ 34.050 RELIGIOUS AND FRATERNAL ORGANIZATIONS.

The town may contract with religious and fraternal organizations to designate a reasonable portion of the cemetery in which burials may be restricted to members of such religious and fraternal

organizations and their families.
(Prior Code, § 8-226)

§ 34.051 SALE SUBJECT TO RULES.

Every lot or single grave sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of lot owners, the remains of the dead and the preservation of the cemetery.
(Prior Code, § 8-227)

§ 34.052 CARE RESERVED.

The town reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemeteries.
(Prior Code, § 8-228)

§ 34.053 ORDERS AND RESPONSIBILITIES FOR ERRORS.

Under no circumstances will the town assume responsibilities for errors in opening graves when orders are given by telephone.
(Prior Code, § 8-229)

§ 34.054 TRAFFIC RULES.

(A) The provisions of the town traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as herein otherwise modified by this subchapter.

(B) It shall be unlawful for any person to ride or drive within the town cemetery at a speed greater than five mph.
(Prior Code, § 8-230) Penalty, see § 10.99

§ 34.055 CHILDREN.

Children under the age of eight years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles.
(Prior Code, § 8-231) Penalty, see § 10.99

§ 34.056 ANIMALS PROHIBITED.

No animal shall be allowed in any cemetery except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery.
(Prior Code, § 8-232) Penalty, see § 10.99

§ 34.057 DECORUM.

Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.
(Prior Code, § 8-233) Penalty, see § 10.99

§ 34.058 INJURY TO CEMETERY PROPERTY PROHIBITED.

(A) It is a Class B misdemeanor for any person to tie or attempt to tie any horse, animal or motor vehicle to any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery for the purpose of injuring, defacing or attempting the removal of same.

(B) It shall be an infraction for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or other property in the cemetery.
(Prior Code, § 8-234) Penalty, see § 10.99

§ 34.059 LANDSCAPING BY PRIVATE PERSONS.

Except as provided by the rules and regulations of the governing body, it shall be unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley or walk in the cemetery or to grade the ground or land thereof. The Cemetery Superintendent shall, whenever required, furnish the true lines of any lots according to official survey, shall prevent and prohibit any markings of the same except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land.
(Prior Code, § 8-235) Penalty, see § 10.99

§ 34.060 PLACEMENT OF MARKERS.

It shall be unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in the cemetery in violation of the rules and regulations promulgated by the governing body regarding the placement, construction and design of all such markers. Prior to interment, the Paragonah Town Recorder shall be provided in writing setting forth the identity of the person to be buried and contact information, including address, email, and telephone number of both the person responsible for as well as the person facilitating the burial. All plots, once a burial has taken place, shall have an identification marker naming the person who is buried there installed at the head of the grave within one year of the burial. An acceptable identification marker shall be approved by the Town of Paragonah and may be a small metal marker or a stone monument marker.

(Prior Code, § 8-236) Penalty, see § 10.99

§ 34.061 ADDITIONAL RULES AND REGULATIONS.

(A) The governing body may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.

(B) The Mayor may, from time to time as the Town Council deems necessary, direct and publish a booklet of rules and regulations for the convenience of the purchasers of lots in the town cemetery. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the cemetery and shall form a supplement to this subchapter after they have been adopted as official by resolution of the Town Council.

(C) Any change in the rules and regulations shall be adopted by the governing body before such changes shall be official.
(Prior Code, § 8-237)

(D) Unused Plots. Rights to plots that have been unused or have no written notice of claim or interest on for over sixty years, may be reclaimed by Paragonah Town in accordance with Utah State law, as thereafter amended. Plots with unpaid perpetual care may be reclaimed by the Town after duly notifying the owner of heirs.

FEES AND CHARGES

§ 34.075 COLLECTION OF FEES.

The Clerk, and such other persons as the governing body may designate, are hereby authorized and required to collect in advance prices and fees for the opening and closing of graves or other services, which shall include, but not be limited to, properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as are determined by the governing body from time to time by resolution.
(Prior Code, § 8-241)

§ 34.076 FEE TO BE PAID FOR OPENING GRAVE.

(A) No grave shall be opened in the town cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.

(B) The presentation of a receipt from the Clerk or person designated by the governing body when presented to the Cemetery Superintendent shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the town wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the Clerk or authorized person may give the Cemetery Superintendent authority to open graves without the

presentation of a receipt from the Clerk or authorized person.
(Prior Code, § 8-242) Penalty, see § 10.99

§ 34.077 PURCHASE PRICE AND FEES.

The governing body shall, from time to time by resolution, fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for various cemetery services to be provided.

(Prior Code, § 8-243)

SALE OF LOTS**§ 34.090 SALE.**

- (A) The Clerk, and such other person as the governing body may designate, are hereby authorized to sell the use of lots in the town cemetery for burial purposes only and to collect all sums arising from the sale. The Clerk shall keep a complete record of all sales, which record shall describe the location of the lot purchased, and the price paid therefore. The Clerk or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price and the type of maintenance services which are to be provided, e.g., perpetual care, prepaid continued maintenance or currently paid services. The number of plots that can be purchased at one time:
- i. A Resident may pre-purchase lots for his/her immediate family members only. Names shall be recorded by the Town on each specific plot. No person may be buried in a plot which is not recorded in their name. Exception: For Grandfathered Family Plots, if the Resident is a Direct Descendant of the person whose name is recorded on the plot deed And who has obtained written consent by the remaining Direct Descendants to be buried In the plot; the Resident will pay the Resident Burial Fee and will pay the administration Fee to record the new name on the plot deed.
 - ii. A Non-Resident is limited to the purchase of one (1) burial plot and one (1) adjacent burial plot, if immediately requested. No person may be buried in a plot which is not recorded in their name. Exception: For Grandfathered Family Plots, if the non-Resident is a Direct Descendant of the person whose name is recorded on the plot deed and who has obtained written consent by the remaining Direct Descendants to be buried in the plot; the Non-Resident will pay the Non-Resident Burial Fee, and will pay the administration fee to record the new name on the plot deed.
 - iii. Resale of burial plots is strictly prohibited and will not be honored by the Town. Unused plots that are no longer needed or wanted shall be transferred back to Paragonah Town for the amount paid, less administration fees as set by resolution. In the event the amount of the purchase cannot be determined, Paragonah Town will buy back the burial right for

\$200, less administration fees set by resolution. No plot shall be marketed or sold for more than the purchase price paid to Paragonah Town.

- iv. Paragonah Town will allow exchanges of plots. In the event that a person wishes to exchange the name on an unused plot with another name, and a new plot deed is issued, an administration fee will be charged as set forth in the fee schedule. If the person to be buried is not a resident for the exchanged plot in a previously purchased plot owned in a resident's name, the non-resident shall pay the difference between the resident and non-resident burial lot, said difference in cost to be assessed at the time of burial.

(B) A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant to this section shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.

(C) Perpetual care or prepaid continued maintenance shall be deemed to include the filling of the grave, the placing of top soil upon the grave, seeding the grave with grass and watering and cutting the grass. No other services are included.

(D) No other improvements, changes or service, except perpetual care or prepaid continued maintenance shall be made on any lot without the certificate holder or his or her heirs first submitting to and receiving from the Cemetery Superintendent, written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the governing body.

(Prior Code, § 8-251) Penalty, see § 10.99

§ 34.091 RESTRICTIONS OF RESALE.

(A) From and after June 20, 1976, the lots sold by this town shall not be further sold, transferred, conveyed or assigned to any person except the town. The town hereby agrees to buy back any town cemetery grave lot which it may hereafter sell. The repurchase of such lots shall be for the original price paid by the purchaser, or if the original purchase price can not be determined \$200 less administration fee.

(B) Whenever a certificate of burial rights or lots reverts to the town, as provided for in this subchapter, or becomes vested in the town, for any reason, before new certificates are issued, the original certificate shall be cancelled or an assignment given and the record shall be so charged.

(C) The certificates shall be issued and signed by the Mayor and shall be attested by the Clerk. All lots or parts of lots, as provided in this section, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.

(Prior Code, § 8-252)

*PERPETUAL CARE***§ 34.105 CONTRACTING FOR PERPETUAL CARE.**

(A) No grave shall be hereafter opened in the cemetery of this town until perpetual care upon the lot where the grave to be opened shall have been contracted for with this town, or perpetual care thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and perpetual care shall not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price for perpetual care or enter into a contract wherein payment shall be agreed.

(B) The agreement shall provide for a down payment in the amount of 20% of the total purchase price of the cost of the lot, and shall further provide for the payment of monthly installments over a period not to exceed 20 months. The monthly installments shall be in the amounts equal to the balance of the contract divided by the number of months which the contract is to run, plus two months extra payment to pay for the privilege of making the payments in installments or 6% of the balance, whichever is less.

(C) The installment contract for perpetual care of, or purchase of a lot with perpetual care, shall provide for collection by the town in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with a reasonable attorney's fee to the town and shall also pay interest at the rate of 8% per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments; provided, however, that when perpetual care for any lot in the town cemetery or portion thereof, has not been paid for a period of ten years, then, and in such an event, the unused portion of the lot shall thereafter escheat to this town, and the title thereof shall revert to this town, which shall thereafter have the right, option and privilege to sell and dispose of unused cemetery property, as is in this chapter provided, upon condition that this town shall thereafter maintain perpetually without cost of fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to this town.

(D) This town shall have power to fix, by resolution, a fee from any person now owning a cemetery lot or portion thereof for the annual maintenance and care thereof. Until such time as a fee shall be fixed by resolution, said person shall pay a fee equal to \$25 per year for such care and maintenance. The fee shall continue to be paid until such time as a further or additional interment shall be made on the lot, at which time the provisions of this subpart relating to perpetual care and maintenance and to payment of fees and costs pertaining thereto shall take effect and apply.

(Prior Code, § 8-261) Penalty, see § 10.99

§ 34.106 CARE INCLUDED.

The essential perpetual care that the town agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all lots and graves at reasonable intervals, re-sodding, seeding and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by

the town.
(Prior Code, § 8-262)

PERPETUAL CARE FUND

§ 34.120 CREATED.

(A) There hereby is established a Perpetual Care Fund, according to the laws of the state, and this chapter. All funds received from the sale of perpetual care services shall be placed in a Special Perpetual Care Fund, invested in compliance with the laws of the state and used for the purposes herein provided.

(B) The income from the Perpetual Care Fund shall be used to pay the upkeep and development of the cemetery. The town may borrow from the fund from time to time, but any funds borrowed shall be repaid to the fund with interest thereon at the prevailing rate paid by the town to borrow funds from commercial lenders.

(C) If the town borrows from the fund, it shall pay into a fund for the operation of the cemeteries the interest accrued upon money annually. Should it be found that the interest returned upon the Perpetual Care Fund shall be more than is required to pay for the operation and upkeep of the town cemetery, then the surplus shall be added to the principal amount of the Perpetual Care Fund herein created, and shall be handled until changed by resolution to provide for the use of such accumulated interest.

(Prior Code, § 8-271)

§ 34.121 DUTIES OF TREASURER.

It shall be the duty of the Treasurer to keep an accurate record of the Perpetual Care Trust Fund Account, including investments, to see that the principal portion thereof is properly invested in accordance with resolutions of the Town Council and the laws of the state, and to advise the Mayor when funds are available for investment in the amount which may be set by resolution from time to time. The Mayor shall advise the Town Council of the availability of such funds.

(Prior Code, § 8-272)

§ 34.122 DUTY OF TOWN COUNCIL.

It shall be the duty of the Town Council when funds are available for investment to direct by resolution all purchases or securities for the Perpetual Care Fund or to name a suitable trustee for such investment.

(Prior Code, § 8-273)

§ 34.123 INCOME.

All income from investments held in Perpetual Care Fund shall be quarterly credited to the Cemetery Maintenance Fund for use in providing the perpetual care as required herein.
(Prior Code, § 8-274)

NON-PERPETUAL CARE LOTS

§ 34.135 MAINTENANCE CHARGES ON LOTS WITHOUT PERPETUAL CARE.

(A) Every lot for which perpetual care has not been purchased and with reference to which the owner has established a right to directly provide for maintenance and care, notwithstanding the provisions of § 34.052, shall be maintained and cared for to the extent and in accordance with the standards established by the Town Council for care and maintenance of all lots of the cemetery.

(B) In the event that the owner fails to provide the requisite care and maintenance for non-perpetual care lots, the Cemetery Superintendent shall furnish care and maintenance at rates established by the Town Council.

(C) All such charges shall become a personal liability of the owner of the lots and, in addition thereto, shall constitute a lien against the lots upon the basis of which the Town Council may cause the burial rights therein to be forfeited and said rights to revert to the town.
(Prior Code, § 8-281)

§ 34.136 REVERSION OF NONPAYING LOTS.

(A) When any owner of any lot or portion of a lot in the cemetery shall have failed to pay the cost of services rendered by the town or its employees in watering, beautifying, maintaining or caring for any lots or portions thereof in the town cemetery for which perpetual care has not been purchased in accordance with the provisions of this chapter, and such failure to pay has continued for a period of six months, the town may pursue collection of such costs in a court of law. A court action may be pursued for the purpose of seeking judgment against the owner and thereafter attaching any of the assets of the owner including an attachment of the lots or portions of lots upon which the owner has failed to make payment for maintenance service.

(B) As an additional remedy, or in lieu of seeking collection in a court of law, the town may cancel the owner's certificate or deed representing rights to burial on unoccupied lots or portions of lots and causing ownership of lots or portions thereof to revert back to the town by following the procedure set forth in this subchapter.
(Prior Code, § 8-282)

§ 34.137 PROCEDURE FOR REVERSION OF LOT TO TOWN.

(A) The town may terminate the owner's right to use of unoccupied lot or lots in the town

cemetery when there has been a six-month failure to pay the cost of maintenance provided by the town in the following manner.

(1) The Town Council shall fix a time and place of hearing before the Town Council, at which the owner shall be given the opportunity to present good cause as to why his or her right to future use of the lot or lots involved shall not be terminated and as to why the ownership of the lot or portions of the lot shall not revert back to the town for resale by it.

(2) A notice of the time, place and purpose of the hearing to forfeit the owner's interest in the lot or parts of the lot shall be given by personal delivery of a written notice of the time, place and purpose of the meeting of the Town Council or by mailing a copy of the notice to the last-known address of the owner or owners.

(3) In the absence of an ability to make personal delivery of the written notice to the owner or owners, a notice of the hearing to forfeit rights to said lot or portions of lot shall be published at least once in a newspaper have in general circulation in the county. The publication shall be made at least three weeks prior to the date of the hearing.

(4) If the owner is known to be deceased, then mailing of notice or delivery of notice shall be made to the last known address of any known heirs.

(5) Copies of the notice shall also be posted in a conspicuous place in the offices of the town.

(6) At the time and place set for the hearing before the Town Council, the Town Council shall give the owner or owners an opportunity to be heard, a right to present witnesses and to submit evidence showing cause why the lot or portions of the lot shall not be forfeited to the municipality.

(B) After due consideration of all the facts presented at such hearing, the Town Council may order, it if finds that there has been a failure to make payment of such costs or if no satisfactory arrangement has been proffered for making the immediate payment of such costs, that the lot or portions of lot shall revert to the town for release and that all of the rights and privileges of the owner in the lot or lots are terminated.

(C) Thereafter, the town may make sale of the lots in the same manner as it makes sales of all other lots within the cemetery.

(Prior Code, § 8-283)

INDIGENTS

§ 34.150 BURIAL OF INDIGENTS.

(A) The Town Council may, by resolution, designate a portion of the town cemetery to the burial of indigents. Whenever it is made to appear to the Mayor by proof submitted to him or her by the Recorder that any person who has died does not have an estate sufficient to pay the purchase price of a lot in the cemetery, and that the nearest relative or representative of such deceased person desires to

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have the body of such deceased interred in the cemetery, the Mayor may grant burial space for such deceased person at the request made to him or her by the Recorder.

(B) The Mayor shall communicate his or her decision to both the Recorder and the Cemetery Superintendent. The Mayor shall give report of his or her decision, whether affirmative or negative, to the Town Council at its next regular meeting. All strangers without funds or other persons who may die in the town may be granted the privilege granted herein.

(Prior Code, § 8-291)

CHAPTER 35: TOWN ORGANIZATIONS

Section

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FIRE DEPARTMENT**§ 35.01 CREATION OF POSITION OF CHIEF.**

There is hereby created the position of Chief of the Fire Department.
(Prior Code, § 10-121)

§ 35.02 POWERS AND DUTIES OF CHIEF.

(A) The Chief shall have responsibility for the general supervision of the Department.

(B) During a fire, the Chief shall have full authority to take all measures as he or she shall deem necessary, subject to state law, to control and extinguish the fire and for that purpose he or she is hereby made a special peace officer.

(C) The Chief shall at least quarterly report to the governing body the condition of the fire equipment, the number of fires and their causes and estimated loss therefrom, together with such other information as the governing body may request or as he or she shall deem appropriate.

(D) The Chief shall strictly enforce all of the provisions of the ordinances of this town relating to the protection against and prevention of fire.

(E) The Chief shall maintain the equipment of the Department in good repair and order and ready for use.

(F) The Chief, subject to the approval of the Mayor and governing body, shall establish rules and regulations for the operation of the Department.

(G) The Chief may delegate his or her duties to any person employed by the Department, but such delegation shall not relieve the Chief of his or her responsibility for the performance thereof.

(H) The Chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.
(Prior Code, § 10-122)

§ 35.03 EMPLOYEES.

(A) The Chief may make recommendations to the Mayor relating to the employment of firefighters and such other personnel as may be necessary to enforce the provisions of this subchapter.

(B) The Chief may employ such additional personnel as the Mayor and governing body may direct or authorize.
(Prior Code, § 10-123)

§ 35.04 POWERS OF FIRE DEPARTMENT.

(A) *Emergency vehicles.* Fire trucks are hereby designated authorized emergency vehicles.
(Prior Code, § 10-131)

(B) *Removal of obstructions at fire.* The officer in charge at any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.
(Prior Code, § 10-132)

(C) *Control of persons.* All persons present at fire shall obey the orders of any firefighter.
(Prior Code, § 10-133)

(D) *Interference with firefighters in discharge of duties.* Every person at the scene of any fire who disobeys the lawful orders of any public officer or firefighter, or offers any resistance to or interference with the efforts of any firefighter, or company of firefighters to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of an infraction.
(Prior Code, § 10-134)

(E) *Unlawful interference with officers, apparatus, water and the like.* Any person who shall willfully hinder any officer or firefighter in the discharge of his or her duty at a fire, or in any manner injure, deface or destroy any engine, hose or other fire apparatus belonging to this town, or who shall interfere with any fire company or person, or who shall willfully break or injure any water pipe, or interfere with the water or its source of supply shall be deemed guilty of a Class B misdemeanor and shall be punished accordingly.
(Prior Code, § 10-135)

(F) *Investigation after fire report.* The Chief, or such other persons as he or she shall designate, shall, after extinguishing a fire, make a prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and record the same in the record book kept for the purpose in the office of the Department and shall report the same to the government body at such time as it may direct.
(Prior Code, § 10-136)

(G) *Right to enter upon and inspect premises.* The Fire Chief or his or her deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making inspections.
(Prior Code, § 10-137)

(H) *Males present at fire subject to orders.* Every male person 18 years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command.
(Prior Code, § 10-138)

(I) *False alarm.* It shall be unlawful for any person to turn in or report to the Fire Department a

false alarm or report of a fire or to tamper or remove any part of the fire alarm system.

(Prior Code, § 10-139)

Penalty, see § 35.99

§ 35.05 UNIFORM FIRE CODE.

(A) *Uniform Fire Code adopted.* There is hereby adopted as the Fire Code by this town, for the purpose of prescribing regulations governing conditions hazardous to life and protecting property from fire or explosion, that certain code known as the State Fire Code Act, being UCA Title 15A-5 et seq., as recommended by the Western Fire Chiefs Association and the International Conference of Building Officials, except to the extent it is hereinafter modified or amended by division (F) below, one copy of which has been and is now filed in the office of the Clerk for use and inspection by the public.

(Prior Code, § 10-151)

(B) *Establishment and duties of Bureau of Fire Prevention.*

(1) The Uniform Fire Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of this town, which is hereby established and which shall be operated under the supervision of the Chief of the Fire Department.

(2) The Chief of the Fire Department may detail such members of the Fire Department as Inspector as shall from time to time be necessary. The Chief of the Fire Department shall recommend to the Mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the Fire Department, and appointments made after examination shall for an indefinite term with removal only for cause.

(Prior Code, § 10-152)

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CORPORATION COUNSEL. As used in the Uniform Fire Code, means the attorney for this town.

JURISDICTION. As used in the Uniform Fire Code, means the boundaries of this town.

(Prior Code, § 10-153)

(D) *Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is to be prohibited.*

(1) The limits referred to in § 15.201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited, are hereby established in an appendix to this Uniform Fire Code.

(2) The limits referred to in § 15.601 of the Uniform Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established in an appendix to this Uniform Fire Code.

(Prior Code, § 10-154)

(E) *Establishment of limits in which bulk storage of liquefied petroleum gases is to be restricted.* The limits referred to in § 20.105(a) of the Uniform Fire Code, in which the bulk storage of liquefied petroleum gas is restricted, is hereby established in the appropriate appendix attached to this Uniform Fire Code.

(Prior Code, § 10-155)

(F) *Establishment of limits of districts in which storage of explosives and blasting agents is prohibited.* The limits referred to in § 11.106(b) of the Uniform Fire Code, in which the storage of explosives and blasting agents is prohibited, are hereby established in the appropriate appendix attached to this Uniform Fire Code.

(Prior Code, § 10-156)

(G) *Amendments made in the Uniform Fire Code.* Any amendments to the Uniform Fire Code shall be set forth in the appropriate appendix to this Uniform Fire Code.

(Prior Code, § 10-157)

(H) *Appeals.* Whenever the Chief shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provisions of the Fire Code do not apply or that the true intent and meaning of the Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief to the governing body within 30 days from the date of such decision.

(Prior Code, § 10-158)

(I) *New materials, processes or occupancies which may require permits.* The Building Inspector and the Chief of the Bureau of Fire Prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the Fire Code. The Chief of the Bureau of Fire Prevention shall post such list in a conspicuous place in his or her office and distribute copies thereof to interested persons.

(Prior Code, § 10-159)

§ 35.06 FIRE HYDRANTS.

(A) The following types of construction shall require the installation of a fire hydrant if one is not within 250 feet of the proposed building: Any new residence, any new addition 50% of the habitable space of existing building (based on square feet), and any new construction of 50% of the building footprint. Building square footage shall be based on habitable space per the International Residential Code.

(B) Exceptions: agriculture, noncombustible construction, porches, patios and carports.

(Prior Code, § 10-165) (Ord. 10-1, passed 2-10-2010)

§ 35.20 ESTABLISHED.

There is hereby created a Planning Commission, to be composed of five members. Members of the Planning Commission shall serve without compensation, except for reasonable expenses incurred in performing their duties as members of this Commission. Members of the Town Council may be appointed to the Planning Commission.

(Prior Code, § 12-111)

§ 35.21 TERM OF OFFICE.

The terms of the Planning Commission shall be staggered. Each member of the Planning Commission shall serve for a term of five years and until his or her successor is appointed; provided, that the term of the first members shall be such that the term of one member shall expire each year. Terms of members of the Planning Commission shall begin on or before the first Monday in February of each year. The Town Council may remove any member of the Planning Commission for cause and after a public hearing, if one is requested. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the unexpired term.

(Prior Code, § 12-112)

§ 35.22 ORGANIZATION.

(A) The members of the Planning Commission shall select from their own members a Chairperson and such other officers as deemed necessary and shall adopt rules and regulations for their organization and for the transaction of business and the conduct of their proceedings.

(B) Reports of official acts and recommendations of the Planning Commission shall be public and made by the Chairperson in writing to the Town Council and shall indicate how each member of the Commission voted with respect to such act or recommendation. Any member of the Commission may also make a concurring or dissenting report or recommendation to the Town Council.

(C) The Planning Commission shall meet quarterly and at such other times as the Planning Commission may determine.

(D) Three members of the Planning Commission shall constitute a quorum.

(Prior Code, § 12-113)

§ 35.23 DUTIES AND POWERS.

The Planning Commission shall have all the powers and duties explicitly or impliedly given planning commissions by the laws of the state.

(Prior Code, § 12-114)

BOARD OF ADJUSTMENT**§ 35.35 ESTABLISHMENT.**

In order to carry out the provisions of the state law relating to planning and zoning, there is hereby created a Board of Adjustment, which shall consist of five members, one member of which shall be a member of the Planning Commission. The members of the Board of Adjustment shall be appointed by the Town Council. The Town Council may fix per diem compensation for the members of the Board of Adjustment by resolution, based on necessary and reasonable expenses for meetings actually attended. (Prior Code, § 12-121)

Statutory reference:

Appeals to Board; time; persons entitled; transmission of papers, see UCA § 10-9-9

Decision on appeal, see UCA § 10-9-13

Notice of hearing of appeal; right of appearance, see UCA § 10-9-11

Stay of proceedings pending appeal, see UCA § 10-9-10

Vote necessary to reverse decision of appointed official, see UCA § 10-9-14

§ 35.36 TERM OF OFFICE.

(A) Each member of the Board of Adjustment shall serve for a term of five years, and until his or her successor is appointed; provided, that the term of the members of the first Board so appointed shall be such that the term of one member shall expire each year.

(B) One member shall be appointed on or before the first Monday in February of each year.

(C) Any member may be removed for cause by the Town Council upon written charges and after public hearing, if such public hearing is requested.

(D) Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

(Prior Code, § 12-122)

§ 35.37 ORGANIZATION.

The Board of Adjustment shall elect a Chairperson and may adopt such rules for its own proceedings as are deemed necessary. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Recorder, which shall be the office of the Board, and shall be a public record.

(Prior Code, § 12-123)

§ 35.38 POWERS, APPEAL; GRANTING OF AND SHOWING TO BE ENTITLED TO

VARIANCE.

To hear and decide requests for conditional uses, but only within the respective zones in which such conditional uses are permitted.

(Prior Code, § 12-127)

Statutory reference:

Similar provisions, see UCA § 10-9-12

POLICE DEPARTMENT**§ 35.50 ESTABLISHED.**

There is hereby established a regularly constituted police force, to be known as the Police Department, which shall consist of a Chief of Police and such other police officers as shall be employed by the municipality.

(Prior Code, § 13-10-1-01)

§ 35.51 MARSHAL; CHIEF OF POLICE.

(A) Powers: see UCA §§ 10-6-69 and 10-13-10 and 17-25-1 et seq.

(B) He or she shall organize, supervise and be responsible for all the activities of the Police Department, and shall define and assign the duties of the different police officers.

(C) He or she shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He or she shall execute all lawful orders of the Mayor and governing body and see that all orders and judgments of the justice of the peace are carried into effect.

(Prior Code, § 13-10-1-02)

§ 35.52 ADDITIONAL POWERS AND DUTIES OF THE POLICE OFFICERS.

The Chief of police and all police officers of the municipality shall have the following powers and duties in addition to those that may be assigned to them as above provided:

(A) To suppress riots, disturbances and breaches of the peace, and to apprehend all persons committing any offense against the laws of the state or ordinances of the municipality;

(B) To execute and serve all warrants, processes, commitments and writs whatsoever issued by the justice of the peace; and

(C) To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, roads, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoying upon them by law

and ordinance.
(Prior Code, § 13-10-1-03)

§ 35.53 REGISTER OF ARREST.

The Chief of Police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.
(Prior Code, § 13-10-1-04)

§ 35.54 PROPERTY TAKEN FROM THE PERSON ARRESTED; TRIPLICATE RECEIPTS.

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must at the time issue triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he or she must deliver to the person arrested. Another he or she must forthwith file with the Clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the Police Department.
(Prior Code, § 13-10-1-05)

§ 35.55 REGISTER OF PROPERTY TO BE KEPT.

The Chief of Police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his or her office or taken from the person of the prisoner and must attach a number to each article and make a corresponding entry thereof.
(Prior Code, § 13-10-1-06)

§ 35.56 STOLEN PROPERTY DISPOSITION.

It shall be the duty of the Chief of Police to keep all lost or stolen property that comes into the possession of the Police Department or any of its members. He or she shall make all reasonable efforts to discover the owners thereof.
(Prior Code, § 13-10-1-07)

§ 35.57 JAIL.

(A) *Governing body to provide.*

(1) The governing body shall provide for a place of incarceration which shall be the municipal jail.

(2) The governing body may contract with any person, county, municipality or combination thereof for the purpose of providing suitable premises and facilities to be used by the municipality as

the municipal jail.

(B) *Jailer.* Until another person is appointed, the Chief of Police shall be ex officio jailer. The jailer shall:

(1) Receive and safely keep all persons duly committed to his or her custody and file and preserve all commitments by which persons are committed; and

(2) Keep a record of each showing the date of arrest, offense charged, term of commitment, date of release and the name, age and place of birth and description of the person committed in a book kept for that purpose.

(C) *Rules.* The jailer shall formulate a system of prison rules and discipline and keep a record in which shall be entered a statement of every infraction thereof committed by any person confined therein.

(D) *Duties of jailer.* The jailer shall receive all persons committed to jail by competent authority, and provide them with necessary food, clothing and bedding. He or she shall cause the prison to be warmed and lighted, when necessary, and to be kept in a sanitary condition. He or she shall enforce all rules prescribed by the governing body for the government of the prison.

(E) *Prisoners to labor on public works.* Any prisoner committed to jail or other place of incarceration as a punishment or in default of the payment of a fine or fine and costs, arising from a violation of the ordinances of this municipality shall be required to work for the municipality at such labor on public works and ways as his or her strength will permit, not exceeding eight hours each working day.

(F) *Work to be performed under the direction of the jailer.* The labor on public works and ways shall be designated by and performed under the direction of the jailer, which labor may include, among other things, clerical, janitorial, car washing, common and menial labor performed in and upon any building, road or property owned or maintained by the municipality. The labor required by this section shall be performed in addition to that labor required by jail regulations to be performed by all prisoners confined in the jail in cleaning and maintaining their cells.

(G) *Time off for work performed.* For each month in which a prisoner confined or committed to jail has actually and satisfactorily performed work as reported and recorded by the officer charge, five days shall be deducted from his or her period of confinement. The reduction of sentence allowed pursuant to this subchapter shall be in addition to the reduction allowed by division (I) below, but no prisoner shall be granted a total reduction of sentence under this subchapter in excess of ten days for any single month. Proportionate reductions shall be made for the fractional period of a month included in any sentence.

(H) *Failure to perform work made breach of rules.* Failure to perform the specified labor, except when the strength of the prisoner will not permit, shall constitute a breach of the rules of the municipal jail, and no reduction of sentence shall be allowed under division (I) below.

(I) *Time off for good behavior.*

(1) Every person undergoing sentence for 30 days or more who has not been guilty of a breach of the rules of the prison shall be entitled to a reduction for the period of his or her sentence as follows:

- (a) From a term of one month, five days;
- (b) From a term of two months, ten days;
- (c) From a term of three months, 15 days;
- (d) From a term of four months, 20 days;
- (e) From a term of five months, 25 days; and
- (f) From a term of six months, 30 days.

(2) Proportionate reductions shall be made for the fractional parts of a month included in any sentence.

(Prior Code, § 13-10-2-00)

§ 35.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person who shall violate any of the provisions of the Uniform Fire Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a Class B misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(2) The application of the above penalty shall not be held to prevent the enforced removal of the prohibited condition.

(Prior Code, § 10-160)

CHAPTER 36: POLICIES AND PROCEDURES; RECORDS

Section

Policies and Procedures for Constitutional Taking Issues

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Records Access and Management Program

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-
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POLICIES AND PROCEDURES FOR CONSTITUTIONAL TAKING ISSUES

§ 36.01 PURPOSE.

The purpose of this subchapter is to provide advisory guidelines for the town to assist the town and its citizens in identifying actions that involve potential or actual physical taking or exaction of private real property in order to assure that constitutional taking issues are addressed.

(Prior Code, § 16-100)

§ 36.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSTITUTIONAL TAKING ISSUES. Actions involving the physical or regulatory taking of private real property by the town that might require compensation to a private real property owner under:

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

GOVERNMENTAL ENTITY. Any entity organized and acting on behalf of the town.
(Prior Code, § 16-200)

§ 36.03 GUIDELINES.

(A) The following guidelines shall be considered by the town when taking any action that might result in the physical or regulatory taking of private real property.

(B) The town should review the following to determine and identify whether a proposed governmental action raises constitutional taking issues:

- (1) Does the action result in a permanent physical occupation of private property;
- (2) Does the action require a property owner to dedicate property or grant an easement to the town;
- (3) Does the action deprive the property owner of all economically viable uses of the property;
- (4) Does the action have a severe impact on the property owner's economic interest; and
- (5) Does the action deny a fundamental attribute of ownership.

(Prior Code, § 16-300)

§ 36.04 ANALYSIS.

(A) If the town determines that a governmental action involves constitutional taking issues, the proposed action should be reviewed by the town to analyze the possible taking and to determine the action to be taken.

(B) In reviewing the proposed action, the following factors may be analyzed:

(1) The affect the potential taking would have on the use of the value of the private property;

(2) The likelihood that the action may result in a constitutional taking;

(3) Any alternatives to the proposed action that would fulfill the town’s lawful objectives and reduce the risk of constitutional taking;

(4) The cost to the town for payment of compensation if a taking is determined;

(5) The governmental interest involved and its nexus to the potential taking; and

(6) If the action is roughly proportionate or reasonably related to the impact of any proposed development.

(Prior Code, § 16-400)

§ 36.05 APPEALS.

(A) Any owner of private property whose interest in the property is subject to a physical or regulatory taking by the town, pursuant to a final and authoritative decision or action of the town, may appeal the town’s decision or action by filing a written notice of appeal and statement of the grounds for the appeal in the Town Clerk’s office within 30 days from the date of the town’s decision or action.

(B) The Town Council or its designee shall hear all the evidence regarding the appeal and render its decision and finding in writing within 14 days from the date the appeal was filed.

(C) If the town fails to hear and decide the appeal within 14 days, the town’s decision is presumed to be approved.

(Prior Code, § 16-500)

§ 36.06 LIMITATIONS.

The guidelines set forth herein are advisory only and shall not be construed to expand nor limit the scope of the town’s liability for a constitutional taking. The town shall have no legal liability to any person, firm or entity of any nature whatsoever and a court may not impose liability upon the town for failure to comply with the provisions of this subchapter.

(Prior Code, § 16-600)

RECORDS ACCESS AND MANAGEMENT PROGRAM**§ 36.20 SHORT TITLE.**

This subchapter is known as the “Town of Paragonah’s Government Records Access and Management Act.”

(Prior Code, § 17-100) (Ord. 93-5, passed 11-10-1993)

§ 36.21 PURPOSE AND INTENT.

(A) In enacting this act, the town recognizes two fundamental constitutional rights:

(1) The right of privacy in relation to personal data gathered by the town; and

(2) The public’s right of access to information concerning the conduct of the public’s business.

(B) It is the intent of the town to:

(1) Establish fair information practices to prevent abuse of personal information by the town while protecting the public’s right of easy and reasonable access to unrestricted public records;

(2) Provides guidelines of openness to government information and privacy of personal information consistent with nationwide standards; and

(3) Establish and maintain an active, continuing program for the economical and efficient management of the town’s records as provided in this subchapter.

(Prior Code, § 17-200) (Ord. 93-5, passed 11-10-1993)

§ 36.22 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUDIT.

(1) A systematic examination of financial, management, program and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls or compliance with laws and regulations; or

(2) A systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.

CHRONOLOGICAL LOGS. The regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency.

CLASSIFICATION, CLASSIFY AND THEIR DERIVATIVE FORMS. Determining whether a record series, record or information within a record is public, private, controlled or protected or exempt from disclosure under UCA § 63-2-201(2)(b).

COMPUTER PROGRAM. A series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. **COMPUTER PROGRAM** does not mean:

- (1) The original data, including numbers, text, voice, graphics and images;
- (2) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
- (3) The mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.

CONTROLLED RECORD. A record containing data on individuals that is controlled as provided in § 36.30.

CONTRACTOR.

- (1) The following:
 - (a) Any person who contracts with the town to provide goods or services directly to the town; or
 - (b) Any private, nonprofit organization that receives funds from the town.
- (2) **CONTRACTOR** does not mean a private provider.

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

DESIGNATION, DESIGNATE AND THEIR DERIVATIVE FORMS. Indicating, based on the town's familiarity with a record series or based on the town's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

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INDIVIDUAL. A human being.

INITIAL CONTACT REPORT.

(1) An initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

- (a) The date, time, location and nature of the complaint, the incident or offense;
- (b) Names of victims;
- (c) The nature or general scope of the agency's initial actions taken in response to the incident;
- (d) The general nature of any injuries or estimate of damages sustained in the incident;
- (e) The name, address and other identifying information about any person arrested or charged in connection with the incident; and
- (f) The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

(2) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in division (1) above appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected or exempt from disclosure under UCA § 63-2-201(3)(b).

PERSON. Any individual, nonprofit or profit corporation, partnership, sole proprietorship or other type of business organization.

PRIVATE PROVIDER. Any person who contracts with the town to provide services directly to the public.

PRIVATE RECORD. A record containing data on individuals that is classified private as provided by § 36.29.

PROTECTED RECORD. A record that is classified protected as provided by § 36.31.

PUBLIC RECORD. A record that has not been appropriately classified private, controlled or protected as provided in §§ 36.29, 36.30 and 36.31.

RECORD. All books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received or retained by the town. **RECORD** does not mean:

- (1) Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he or she is working;

(2) Materials that are legally owned by an individual in his or her private capacity;

(3) Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the town;

(4) Proprietary software;

(5) Junk mail or commercial publications received by the town or an official or employee of the town;

(6) Books and other materials that are cataloged, indexed or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;

(7) Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he or she is working;

(8) Computer programs as defined that are developed or purchased by or for the town for its own use; or

(9) Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of Pardons or a member of any other body charged by law with performing a quasi-judicial function.

RECORD SERIES. A group of records that may be treated as a unit for purposes of designation, description, management or disposition

RECORDS OFFICER. The Town Recorder and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal and preservation of records.

SUMMARY DATA. Statistical records and compilations that contain data derived from private, controlled or protected information, but that do not disclose private, controlled or protected information.

(Prior Code, § 17-300) (Ord. 93-5, passed 11-10-1993)

§ 36.23 RIGHT OF PUBLIC ACCESS.

(A) Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to § 36.25.

(B) All records are public unless otherwise expressly provided by this subchapter or state or federal law or regulation.

(C) The following records are not public:

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(1) Records that are appropriately classified private, controlled or protected as allowed by §§ 36.29, 36.30 and 36.31; and

(2) Records to which access is restricted pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(D) Only those records specified in §§ 36.29, 36.30 and 36.31 may be classified private, controlled or protected.

(Prior Code, § 17-400) (Ord. 93-5, passed 11-10-1993)

§ 36.24 ACCESS TO NON-PUBLIC RECORDS.

(A) Upon request the town shall disclose a private record to:

(1) The subject of the record;

(2) The parent or legal guardian of an un-emancipated minor who is the subject of the record;

(3) The legal guardian of a legally incapacitated individual who is the subject of the records;

(4) Any other individual who;

(a) Has a power of attorney from the subject of the record; or

(b) Submits a notarized release from the subject of the record or his or her legal representative dated no later than 90 days before the date the request is made.

(5) Any person to whom the record must be provided pursuant to court order.

(B) (1) Upon request, the town shall disclose a controlled record to:

(a) A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is made and a signed acknowledgment; or

(b) Any person to whom a record must be disclosed pursuant to court order.

(2) A person who receives a record from the town in accordance with division (B)(1)(a) above may not disclose controlled information from that record to any person, including the subject of the record.

(C) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(D) Upon request the town shall disclose a protected record to:

(1) The person who submitted the information in the record;

(2) Any other individual who:

(a) Has a power of attorney from all persons, governmental entities or political subdivisions whose interests were sought to be protected by the protected classification; or

(b) Submits a notarized release from his or her legal representatives dated no more than 90 days prior to the date the request is made.

(E) The town may disclose a record classified private, controlled or protected to another governmental entity, city, another state, the United States or a foreign government only as provided by UCA § 63-2-206.

(F) Before releasing a private, controlled or protected record, the town shall obtain evidence of the requester's identity.

(G) The town shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(1) The record deals with a matter in controversy over which the court has jurisdiction.

(2) The court has considered the merits of the request for access to the record;

(3) The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interest in the case of private or controlled records, business confidentiality interests in the case of records protected under UCA § 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;

(4) To the extent the record is properly classified private, controlled or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

(5) Where access is restricted by a rule, statute or regulation referred to in § 36.23(C)(2), the court has authority independent of this subchapter to order disclosure.

(H) (1) The town may disclose or authorize disclosure of private or controlled records for research purposes if the town:

(a) Determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;

(b) Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;

(c) Requires the researcher to assure the integrity, confidentiality and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(d) Prohibits the researcher from disclosing the record in individually identifiable form

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except as provided in division (H)(2) below, or from using the record for purposes other than the research approved by the town; and

(e) Secures from the researcher a written statement of his or her understanding of an agreement to the conditions of this division (H) and his or her understanding that violation of the terms of this division (H) may subject him or her to criminal prosecution under UCA § 63-2-801.

(2) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(3) The town may require indemnification as a condition of permitting research under this division (H).

(a) Under § 36.23(C)(2) and § 36.35(D), the town may disclose records that are private under § 36.29, or protected under § 36.31 to persons other than those specified in this section.

(b) Under § 36.34, the Town Council may require the disclosure of records that are private under § 36.29, controlled under § 36.30, or protected under § 36.31 to persons other than those specified in this section.

(c) Under UCA § 63-2-404(8), the court may require the disclosure of records that are private under § 36.29, controlled under § 36.30, or protected under § 36.32 to persons other than those specified in this section.

(Prior Code, § 17-500) (Ord. 93-5, passed 11-10-1993)

§ 36.25 FEES.

(A) The town may charge a reasonable fee to cover the town's actual cost of duplicating a record or compiling a record in a form other than that maintained by the town. The fees may be set by resolution.

(B) The initial fee, until changed by resolution, is as set forth in § 36.40(A).

(C) (1) A town may fulfill record request without charge when it determines that:

(a) Releasing the record primarily benefits the public rather than a person;

(b) The individual requesting the record is the subject of the record; or

(c) The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(2) A town may not charge a fee for:

(a) Reviewing a record to determine whether it is subject to disclosure; or

(b) Inspecting a record.

(Prior Code, § 17-600) (Ord. 93-5, passed 11-10-1993)

§ 36.26 PROCEDURES FOR ACCESS.

(A) A person making a request for a record shall furnish the town with a written request, containing his or her name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

(B) As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the town shall respond to the request by:

(1) Approving the request and providing the record;

(2) Denying the request;

(3) Notifying the requester that it does not maintain the record and providing, if known, the name and address of where the record can be found; or

(4) Notifying the requester that because of one of the extraordinary circumstances listed in division (D) below, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.

(C) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(D) The following circumstances constitute “extraordinary circumstances” that allow the town to delay approval or denial by an additional period of time as specified in division (E) below if the town determines that due to the extraordinary circumstances it cannot respond within the time limits provided in division (B) above:

(1) Another governmental entity is using the record, in which case the town shall promptly request that the governmental entity currently in possession return the record;

(2) Another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;

(3) The request is for a voluminous quantity of records;

(4) The town is currently processing a large number of records requests;

(5) The request requires the town to review a large number of records to locate the records requested;

(6) The decision to release a record involves legal issues that require the town to seek legal

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counsel for the analysis of statutes, rules, ordinances, regulations or case law;

(7) Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(8) Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(E) If one of the extraordinary circumstances listed in division (D) above precludes approval or denial within the time specified in division (B) above, the following time limits apply to the extraordinary circumstances.

(1) For claims under division (D)(1) above, the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work.

(2) For claims under division (D)(2) above, the originating town shall notify the requester when the record is available for inspection and copying.

(3) For claims under divisions (D)(3), (D)(4) and (D)(5) above, the town shall:

(a) Disclose the records that it has located which the requester is entitled to inspect;

(b) Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and

(c) Complete the work and disclose those records that requester is entitled to inspect as soon as reasonably possible.

(4) For delays under division (D)(6) above, the town shall either approve or deny the request within five business days after the response time specified for the original request has expired.

(5) For delays under division (D)(7) above, the town shall fulfill the request within 15 business days from the date of the original request.

(6) For delays under division (D)(8) above, the town shall complete its programming and disclose the requested records as soon as reasonably possible.
(Prior Code, § 17-700) (Ord. 93-5, passed 11-10-1993)

§ 36.27 DENIALS.

(A) If the town denies the request in whole or part, it shall provide notice of denial to the requester either in person or by sending the notice to requester's address.

(B) The notice of denial shall contain the following information:

(1) A description of the record or portions of the record to which access was denied, provided

that the description does not disclose private, controlled or protected information or records to which access is restricted pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds;

(2) Citations to the provisions of this subchapter, another state statute, federal statute, court rule or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled or protected information;

(3) Statement that the requester has the right to appeal the denial to the Town Council; and

(4) A brief summary of the appeals process, and the time limits for filing an appeal.

(C) Unless otherwise required by a court or agency of competent jurisdiction, the town may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

(Prior Code, § 17-800) (Ord. 93-5, passed 11-10-1993)

§ 36.28 RECORDS THAT MUST BE DISCLOSED.

(A) The following records are public:

(1) Laws and ordinances;

(2) Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment and relevant education, previous employment and similar job qualification of the town's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(3) Final opinions, including concurring and dissenting opinions, and orders that are made by the town in an administrative, adjudicative or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information that is private, protected or controlled;

(4) Final interpretation of statutes or rules by the town unless classified as protected as provided in § 36.31(O), (P) and (Q);

(5) Information contained in or compiled from a transcript, minutes or report of the open portion of a meeting of the town, including the records of all votes of each member of the Town Council;

(6) Judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this subchapter;

(7) Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, the

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Division of Water Rights or other governmental entities that give public notice of:

- (a) Titles or encumbrances to real property;
- (b) Restrictions on the use of real property;
- (c) The capacity of persons to take or convey title to real property; or
- (d) Tax status for real and personal property.

(8) Records of the Department of commerce that evidence incorporation, mergers, name changes and uniform commercial code filings;

(9) Data on individuals that would otherwise be private under this subchapter if the individual who is the subject of the record has given the town written permission to make the records available to the public;

(10) Documentation of the compensation that the town pays to a contractor or private provider; and

(11) Summary data.

(B) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under § 36.23(C)(2) or §§ 36.29, 36.30 or 36.31:

(1) Administrative staff manuals, instructions to staff and statements of policy;

(2) Records documenting a contractor's or private provider's compliance with the terms of a contract with the town;

(3) Records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the town;

(4) Contracts entered into by the town;

(5) Any account, voucher or contract that deals with the receipt or expenditure of funds by the town;

(6) Records relating to governmental assistance or incentives publicly disclosed, contracted for or given by the town, encouraging a person to expand or relocate a business in the state, except as provided in UCA § 63-2-304(34);

(7) Chronological logs and initial contact reports;

(8) Correspondence by and with the town in which the town determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(9) Empirical data contained in drafts if:

(a) The empirical data is not reasonably available to, the requester elsewhere in similar form; and

(b) The town is given a reasonable opportunity to correct any errors or make non-substantive changes before release.

(10) Drafts that are circulated to anyone other than the town, state or to anyone other than a federal agency if the city, state or federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(11) Drafts that have never been finalized but were relied upon by the town in carrying out action or policy;

(12) Original data in a computer program if the town chooses not to disclose the program;

(13) Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(14) Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;

(15) Records that would disclose information relating to formal charges or disciplinary actions against a past or present town employee if:

(a) The disciplinary action has been completed and all time periods for administrative appeal have expired; and

(b) The formal charges were sustained.

(16) Records maintained by the Division of State Lands and forestry or the Division of Oil, Gas and Mining that evidence mineral production on government lands;

(17) Final audit reports;

(18) Occupational and professional licenses;

(19) Business licenses; and

(20) A notice of violation, a notice of agency action under UCA § 63-46b-3, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the town, but not including records that initiate employee discipline.

(Prior Code, § 17-900) (Ord. 93-5, passed 11-10-1993)

§ 36.29 PRIVATE RECORDS.

(A) The following records are private:

(1) Records concerning an individual's eligibility for unemployment insurance benefits,

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social services, welfare benefits or the determination of benefit levels;

(2) Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data;

(3) Records of publicly funded libraries that when examined alone or with other records identify a patron;

(4) Records received or generated in a Senate of House Ethics Committee concerning any alleged violation of the rules on legislative ethics if the Ethics Committee meeting was closed to the public; and

(5) Records concerning a current or former employee of, or applicant for employment with the town that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status or payroll deductions.

(B) The following records are private if properly classified by the town:

(1) Records concerning a current or former employee of, or applicant for employment with town, including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public under § 36.28(B)(2) or (B)(15) or private under division (A)(5) above;

(2) Records describing an individual's finances, except that the following are public:

(a) Records described in § 36.28(A);

(b) Information provided to the town for the purpose of complying with a financial assurance requirement; or

(c) Records that must be disclosed in accordance with another statute.

(3) Records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(4) Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy; and

(5) Records provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it. (Prior Code, § 17-1000) (Ord. 93-5, passed 11-10-1993)

§ 36.30 CONTROLLED RECORDS.

A record is controlled only if:

(A) The record contains medical, psychiatric or psychological data about an individual; and

(B) The town reasonably believes that:

(1) Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual.

(2) Releasing the information would constitute a violation of normal professional practice and medical ethics; and

(3) The town has properly classified the record.
(Prior Code, § 17-1100) (Ord. 93-5, passed 11-10-1993)

§ 36.31 PROTECTED RECORDS.

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

(A) Trade secrets as defined in UCA § 13-24-2 if the person submitting the trade secret has provided the town with the information specified in UCA § 63-2-308;

(B) Commercial information or non-individual financial obtained from a person if:

(1) Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the town to obtain necessary information in the future;

(2) The person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(3) The person submitting the information has provided the city with the information specified in UCA § 63-2-308.

(C) Commercial or financial information acquired or prepared by the town to the extent that a disclosure would lead to financial speculations in currencies, securities or commodities that will interfere with a planned transaction by the town or cause substantial financial injury to the town or cause substantial financial injury to the town or state economy;

(D) Test questions and answers to be used in future license, certification, registration, employment or academic examinations;

(E) Records, the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the town, except that this division (E) does not restrict the right of a person to see bids submitted to or by the town after bidding is closed;

(F) Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any

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rights to the property are acquired unless:

(1) Public interest in obtaining access to the information outweighs the town's need to acquire the property on the best terms possible;

(2) The information has already been disclosed to person not employed by or under a duty of confidentiality to the entity;

(3) In the case of records that would identify property, potential sellers of the property described have already learned of the town's plans to acquire the property; and

(4) In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the town's estimated value of the property.

(G) Records prepared in contemplation of sale, exchange, lease, rental or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(1) The public interest in access outweighs the interests in restricting access, including the town's interest in maximizing the financial benefit of the transaction; or

(2) When prepared by or on behalf of the town, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty or confidentiality to the town.

(H) Records created or maintained for civil, criminal or administrative enforcement purposed or audit purposes, or for discipline, licensing, certification or registration purposes if release of the records:

(1) Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes;

(2) Reasonably could be expected to interfere with audits, disciplinary or enforcement proceedings;

(3) Would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(4) Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(5) Reasonably could be expected to disclose investigative or audit techniques, procedures, policies or orders not generally known outside of governing if disclosure would interfere with enforcement of audit efforts.

(I) Records the disclosure of which would jeopardize the life or safety of an individual;

(J) Records the disclosure of which would jeopardize the security of governmental property, governmental programs or governmental record keeping systems from damage, theft or other appropriation or use contrary to law or public policy;

(K) Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;

(L) Records that if disclosed, would reveal recommendations made to the Board of Pardons by an employee of or contractor for the Department of Corrections, the Board of Pardons or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis or treatment of any person within the board's jurisdiction;

(M) Records and audit work papers that identify audit, collection and operational procedures and methods used by the State Tax Commission if disclosure would interfere with audits or collections;

(N) Records of governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(O) Records prepared by or on behalf of the town solely in anticipation of litigation that are not available under the rules of discovery;

(P) Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the town concerning litigation;

(Q) Records of communications between the town and an attorney representing, retained or employed by the town if the communications would be privileged as provided in UCA § 78 24-8;

(R) Drafts, unless otherwise classified as public;

(S) Records concerning the town's strategy about collective bargaining or pending litigation;

(T) Records of investigations of loss occurrences and analyses of loss occurrences;

(U) Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(V) Records that reveal the location of historic, prehistoric, paleontological or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational or cultural information;

(W) Records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(X) Records provided by the United States or by a government entity outside the state that are given to the town with a requirement that they be managed as protected records if the providing entity

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certifies that the record would not be subject to public disclosure if retained by it;

(Y) Transcripts, minutes or reports of the closed portion of a meeting of a public body except as provided in § 52-4-7 of the Open and Public Meeting Act;

(Z) Records that would reveal the contents of settlement negotiations, but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(AA) Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons, or a member of any other body charged by law with performing a quasi-judicial function;

(BB) Records that would reveal negotiations regarding assistance or incentives offered by or requested from the town for the purpose of encouraging a person to expand or locate a business in the state, but only if disclosure would result in actual economic harm to the person or place the town in a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and

(CC) Materials to which access must be limited for purposes of securing or maintaining the town's proprietary protection of intellectual property rights including patents, copyrights and trade secrets. (Prior Code, § 17-1200) (Ord. 93-5, passed 11-10-1993)

§ 36.32 RECORDS CLASSIFICATION AND DESIGNATION.

(A) The town shall:

- (1) Evaluate all record series that it uses or creates;
- (2) Designate those record series as provided by this subchapter; and
- (3) Report the designation of its record series to the state archives.

(B) The town may classify a particular record, record series or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.

(C) The town may re-designate a record series or reclassify a record or record series, or information within a record at any time. (Prior Code, § 17-1300) (Ord. 93-5, passed 11-10-1993)

§ 36.33 RECORDS RETENTION.

The town shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in § 36.40(B). (Prior Code, § 17-1400) (Ord. 93-5, passed 11-10-1993)

§ 36.34 SEGREGATION OF RECORDS.

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

(A) Shall allow access to information in the record that the requester is entitled to inspect under this subchapter; and

(B) May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial.

(Prior Code, § 17-1500) (Ord. 93-5, passed 11-10-1993)

§ 36.35 APPEALS.

(A) (1) Any person aggrieved by the town's access determination under this subchapter, including a person not a party to the town's proceeding, may appeal the determination to the Mayor and the Town Council by filing a notice of appeal.

(2) If the town claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the town's claim of extraordinary circumstances or date for compliance within 30 days after notification of a claim of extraordinary circumstances by the town, despite the lack of a "determination" or its equivalent.

(B) (1) If the appeal involves a record that is the subject of a business confidentiality claim under UCA § 63-2-308, the Town Recorder shall:

(1) Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(2) Send notice of the business confidentiality claim and the schedule for the Town Recorder's determination to the requester within three business days after receiving notice of the requester's appeal.

(C) The claimant shall have seven business days after notice is sent by the Town Recorder to submit further support, for the claim of business confidentiality.

(1) The Mayor shall make a determination on any appeal within the following period of time:

(a) Within five business days after the Mayor's receipt of the notice of appeal; or

(b) Within 12 business days after the town sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

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(2) If the Mayor fails to make a determination within the time specified in division (C)(1) above, the failure shall be considered the equivalent of an order denying the appeal.

(3) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(D) The Mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under § 36.29(B) or protected under § 36.31 if the interest favoring access outweigh the interest favoring restriction of access.

(E) The town shall send written notice of the determination of the Mayor to all participants. If the Mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the Town Council, and the time limits for filing an appeal.

(F) The duties of the Mayor under this section may be delegated.

(G) The notice of appeal to the Town Council must be filed with the Town Recorder no later than 30 days after the Mayor has denied the appeal or fails to make a determination within the time specified in division (C)(1) above.

(H) The notice of appeal shall contain the following information:

- (1) The petitioner's name, mailing address and daytime telephone number; and
- (2) The relief sought.

(I) The petitioner may file a short statement of facts, reasons and legal authority in support of the appeal.

(J) No later than three days after receiving a notice of appeal, the Recorder shall:

(1) Schedule a hearing for the Town Council to discuss the appeal which shall be held no sooner than 15 days and no later than 30 days from the date of the filing of the appeal;

(2) At the hearing, the Town Council shall allow the parties to testify, present evidence and comment on the issues. The Town Council may allow other interested persons to comment on the issues;

(3) No later than three business days after the hearing, the Town Council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the town in whole or in part; and

(4) The order of the town shall include:

(a) A statement of reasons for the decision, including citations to this subchapter or federal regulation that governs disclosure of the record, provided that the citations do not disclose private, controlled or protected information;

(b) A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled or protected information;

(c) A statement that any party to the appeal may appeal the town's decision to district court; and

(d) A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(K) A person aggrieved by the town's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a non-requestor is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within 30 days after receiving the notice of appeal.

(Prior Code, § 17-1600) (Ord. 93-5, passed 11-10-1993)

§ 36.36 JUDICIAL REVIEW.

(A) Any party to a proceeding before the Town Council may petition for judicial review by the district court of the Town Council's order.

(B) The petition shall be filed no later than 30 days after the date of the Town Council's order.
(Prior Code, § 17-1700) (Ord. 93-5, passed 11-10-1993)

§ 36.37 CONFIDENTIAL TREATMENT OF RECORDS FOR WHICH NO EXCEPTION APPLIES.

(A) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

- (1) There is compelling interest favoring restriction of access to the record; and
- (2) The interests favoring restriction of access clearly outweigh the interests favoring access.

(B) If the town requests a court to restrict access to a record under this section, the court shall require the town to pay the reasonable attorney's fees incurred by the lead party in opposing the town's request if:

- (1) The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
- (2) The court denies confidential treatment under this section.

(C) This section does not apply to records that are specifically required to be public under § 36.28 or UCA § 63-2-301, except as provided in division (D) below.

(D) (1) Access to drafts and empirical data in drafts may be limited under this section, but the

court may consider, in its evaluation of interests favoring restriction of access, only those interest that relate to the underlying information, and not the deliberative nature of the record.

(2) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interest favoring restriction of access, only those interests that relate to the underlying information, and not the status of that data as part of a computer program. (Prior Code, § 17-1800) (Ord. 93-5, passed 11-10-1993)

§ 36.38 REQUEST TO AMEND A RECORD.

(A) (1) Subject to § 36.26, an individual may contest the accuracy or completeness of any public, or private, or protected record concerning him or her by requesting the town to amend the record. However, this section does not affect the right of access to private or protected records.

(2) The request shall contain the following information:

(a) The requester's name, mailing address and daytime telephone number; and

(b) A brief statement explaining why the town should amend the record.

(B) The town shall issue an order either approving or denying the request to amend no later than 30 days after receipt of the request.

(C) If the town approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A town may not disclose the record until it has amended it.

(D) If the town denies the request it shall:

(1) Inform the requester in writing; and

(2) Provide a brief statement giving its reasons for denying the request.

(E) (1) If the town denies a request to amend a record, the requester may submit a written statement contesting the information in the record.

(2) The town shall:

(a) File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and

(b) Disclose the requester's statement along with the information in the record whenever the town discloses the disputed information.

(F) The requester may appeal the denial of the request to amend a record pursuant to § 36.35.

(G) This section does not apply to records relating to title to real or personal property, medical records, judicial records, judicial case files or any other case files, or any other records that the town

determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.
(Prior Code, § 17-1900) (Ord. 93-5, passed 11-10-1993)

§ 36.39 RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED.

(A) (1) The town shall file with the state archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by the town.

(2) That statement is a public record.

(B) Upon request, the town shall explain to an individual:

(1) The reasons the individual is asked to furnish to the town information that could be classified private or controlled;

(2) The intended uses of the information; and

(3) The consequences for refusing to provide information.

(C) The town may not use private or controlled records for purposes other than those given in the statement filed with the state archivist under division (A) above or for purposes other than those for which another governmental entity could use the record under UCA § 63-2-206.

(Prior Code, § 17-2000) (Ord. 93-5, passed 11-10-1993)

§ 36.40 FEES; RETENTION SCHEDULE.

(A) *Fees.*

Copies per page	\$0.50
Certified copies per page	\$1
Compilation time per hour	\$10

(Prior Code, § Sch. A)

(B) *Retention schedule.* The retention schedule of this municipality is the schedule promulgated by the State Division of Archives and Record Service for Local Governments.

(Prior Code, § Sch. B)

§ 36.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Criminal penalties.*

(1) (a) A public employee or other person who has lawful access to any private, controlled or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled or protected record to any person knowing that such disclosure is prohibited, is guilty of a Class B misdemeanor.

(b) It is a defense to prosecution under division (B)(1) above that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office or misappropriation of public funds or property.

(c) It is a defense to prosecution under division (A)(1) above that the record could have lawfully been released to the recipient if it had been properly classified.

(2) (a) A person who by false pretenses, bribery or theft, gains access to or obtains a copy of any private, controlled or protected record to which he or she is not legally entitled is guilty of a Class B misdemeanor.

(b) No person shall be guilty under division (B)(1) above who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.

(3) A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a town, the Records Committee or a court, is guilty of a Class B misdemeanor.
(Prior Code, § 17-2100) (Ord. 93-5, passed 11-10-1993)