

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-100. Municipal Governing Body.

3-101. Eligibility for Elective Office. (See UCA Section 10-3-301.)

3-102. Vacancy in Council. (See UCA Section 10-3-302.)

3-103. Vacancy in Office of Mayor. (See UCA Section 10-3-302.)

3-104. Quorum Defined. (See UCA Sections 10-3-503 and 10-3-504.) (Ord. 02-03)

3-105. Compelling Attendance at Meetings. (See UCA Section 10-3-305.)

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-200. Meetings of Governing Body.

3-201. Regular Meetings. The governing body shall hold two regular meetings each month at the Meeting Room in the North Logan City Library building, 475 East 2500 North. The days of the month and times for the meetings shall be established by resolution during the first meeting of the governing body each calendar year. If an established meeting date is a legal holiday or if the governing body changes the date or place of the meeting, then the meeting shall be held at the place, date and time determined by the governing body; provided that the governing body provides notice of any changes to their regular meetings as prescribed by law.
(Ord. 98-03, Ord. 00-01)

3-202. Special Meetings. (See UCA Section 10-3-502.)

3-203. Voting. (See UCA Section 10-3-506.)

3-204. Roll Call. On every ordinance or resolution and on every motion or other business where a roll call vote is requested by any member of the governing body or is otherwise required, the recorder/clerk shall call the roll in alphabetical order and record the vote.

3-205. Creation of Liability Against Municipality. (See UCA Section 10-3-506.)

3-206. Reconsideration of Vote. (See UCA Section 10-3-508.)

3-207. Business to be Conducted Only in Open meeting. (See UCA Sections 10-3-601 and 52-4-3.)

3-208. Executive Session. (See UCA Sections 52-4-4 and 52-4-5.)

3-209. Penalty for Violating this Part. (See UCA Section 10-3-605.)

3-210. Public Records.

- (A) The records of this municipality shall be open to inspection by the public during regular business hours, except as is herein provided.
- (B) Any public record of this municipality may be copied or electronically reproduced for any member of the public on payment to the recorder of reasonable charges established by a resolution of the City Council.
- (C) Any elected official of this municipality shall at all times have the right to inspect the books, records and papers of the municipality.

TITLE 3. MUNICIPAL GOVERNMENT

3-211. Record of Proceedings. The recorder/clerk shall keep a record of the proceedings of the meetings of the governing body, except that minutes of the executive session shall not be available to the public until such time as the governing body shall make them public or by an order of court.

3-212. Rules of Procedure. Except as otherwise specifically required or provided by law, these ordinances, or by resolution of the governing body, the most current edition of *Robert's Rules of Order* shall govern the procedure and conduct of the meetings of the governing body.

3-213. Agenda. All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the governing body shall be delivered to the recorder/clerk, at least 48 hours prior to each governing body meeting, whereon the recorder/clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the governing body, and when present, the attorney, with a copy of the same prior to the governing body meeting and as far in advance of the meeting as time for preparation will permit. Only the foregoing matters shall be presented to the governing body by administrative officials, except those of an urgent nature, provided that the governing body may, by motion, waive the requirements of this section.

3-214. Order of Business.

(A) At the time and place set for each meeting of the members of the governing body, the business of the municipality shall be taken up for consideration and disposition the following items in general and specifically as provided by motion of the governing body in the adoption of the meeting's agenda:

1. Opening Business to include:
 - Welcome, Roll Call, and Opening Ceremony and/or Remarks
 - Adoption of agenda
2. Approval and follow-up of minutes of previous meeting(s)
3. Discussion Items to include:
 - Petitions, remonstrances and communications from the public.
 - Specific discussion items from the city council, mayor or the city staff. (Any discussion items must be presented to the City Recorder at least one week prior to the meeting to be placed on the agenda)
4. Business items to include:
 - Public Hearings,
 - Unfinished business from previous meetings,
 - New business,
 - Consideration of resolutions and ordinances, and
 - Appropriations
5. Reports from city officers, boards, and committees.

TITLE 3. MUNICIPAL GOVERNMENT

6. Miscellaneous.
7. Adjournment

(Ord. 02-06, Ord 04-02)

- (B) The governing body may by motion change, amend or delete any agenda item provided for in this section.

3-215. Action on Committee Reports Deferred. (See UCA Section 10-3-609)

3-216. Discipline of Members. (See UCA Section 10-3-607.)

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-300. Ordinances and Resolutions.

3-301. Publication and Effective Date of Ordinances. (See UCA Sections 10-3-711 and 10-3-712.)

3-302. Notice. The official locations for posting ordinances, public hearing notices and other documents, when such are required by law to be posted for the public, shall be:

1. North Logan City Offices, 2076 North 1200 East Suite 2.
2. North Logan City Library, 475 East 2500 North.
3. North Logan Public Safety Building, 2005 North 1200 East, (also known as the North Park Police Department/North Logan Fire Department Building)..

(Ord. 00-01, Ord. 02-12)

3-303. Recorder's/Clerk's Duties. (See UCA Sections 10-3-713, 10-3-916, 10-3-1106, 10-6-112, 10-6-137, and 10-6-138.) (Ord. 02-03)

3-304. Powers of Governing Body to be Exercised by Ordinance. (See UCA Section 10-3-701.)

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-400. Administration.

3-401. Mayor. The Mayor shall be the chief executive and administrator of the municipality and shall:

- (A) Appoint, with the concurrence of the governing body, all officers of the municipality.
- (B) Supervise all appointed officials and employees.
- (C) Recommend to the governing body any change in position of any person requiring the concurrence or action of the governing body.
- (D) Inspect all books and records pertaining to municipal affairs kept by any officer, employee, former officer or employee of the municipality at any reasonable time.
- (E) Whenever there is a dispute as to the respective duties or powers of any appointed officer of the municipality, the dispute shall be settled by the Mayor who may confer with the attorney; and the Mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty, subject to the consent of the governing body at its next regular meeting.
- (F) Temporarily designate himself or any other person to perform the duties of any office or position of the municipality which is vacant or which is not properly administered due to the absence or disability of the person appointed to that office or position.
- (G) Prepare and present to the governing body such reports as are required by law and such other reports as are requested by the governing body.
- (H) Perform such other duties as may be required by statute or ordinance.

3-402. Absence of Mayor. (See UCA Section 10-3-403.)

3-403. No Vote Except in Tie. (See UCA Section 10-3-402.)

3-404. Veto. (See UCA Section 10-3-404.)

3-405. Amount of Bond.

- (A) Before taking the oath of office and entering on the duties of their respective office, the following named municipal officials shall each give a bond with good and sufficient securities, payable to the municipality 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 resolution by the City Council:

TITLE 3. MUNICIPAL GOVERNMENT

OFFICE

- (1) Mayor
- (2) Council Member
- (3) Treasurer
- (4) Recorder/Clerk
- (5) Chief of Police
- (6) Justice of the Peace
- (7) Animal Control Officer

- (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 municipality.
- (C) The premium charged by any corporate surety for any bond required in this section shall be paid by this municipality.
- (D) The bond required in this section may be a blanket bond.

3-406. Oath Required Before Taking Office or Performing Duties. (See UCA Section 10-3-827.)

3-407. Form of Oath. (See Constitution of Utah, Article IV, Section 10.)

3-408. Salaries.

- (A) The salary of the officers and employees of this municipality shall be paid in the amount and at such times as is specified by ordinance. The governing body shall, by annual ordinance, specify the salaries of the following employees and officers: (Ord. 98-03)
 - (1) Mayor
 - (2) Council Member
 - (3) City Administrator
 - (4) Recorder
 - (5) Treasurer
 - (6) Chief of Police
 - (7) Justice Court Judge

TITLE 3. MUNICIPAL GOVERNMENT

- (B) In addition to the salary paid the officers and employees of this municipality, they shall receive the following benefits:
- (1) (Deleted) (Ord. 02-03)
 - (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.
 - (4) Participation in the Utah State Retirement Program on such basis and cost as the governing body may from time to time by resolution establish.
- (C) Deleted (Ord. 97-11).
- (D) Wages and salaries shall be paid employees of North Logan City in accordance with a market-based, pay-for-performance compensation plan based on the Utah Local Government Compensation Survey. (Ord 04-11)

(Ord.95-7; Ord 94-11; Ord.93-5; Ord 93-4; Ord.92-5; Ord 91-2; Ord.90-3; Ord 89-8)

3-409. Deleted (Ord. 01-08)

3-410. Expenses. In addition to all other compensation or salaries any officer or employee of this municipality may receive, following the submission to the Recorder/Clerk of a claim, travel expenses and per diem established by the Utah 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.

3-411. Terms of Appointment. (See UCA Section 10-3-1105.)

3-412. (Deleted) (Ord. 02-03)

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-500. Appointed Officials and Their Duties.

3-501. Statutory Offices.

- (A) Recorder/Clerk. (See UCA Sections 10-2-405, 10-3-713, 10-3-916, 10-3-1106, 10-6-112, 10-6-137 through 10-6-140, and 10-6-150.)
- (B) Treasurer. (See UCA Sections 10-6-140 through 10-6-146.)
- (C) Chief of Police. (See UCA Sections 10-3-915, 10-3-918, and 10-3-919.)
- (D) Justice Court Judge. (See UCA Section 78-5-106.)
- (E) City Engineer. (See UCA Section 10-3-917.)
- (F) City Attorney. (See UCA Section 10-3-928.)

(Ord. 02-03)

3-502. Appointment of Officers and Agents.(See UCA Section 10-3-901.)

3-503. Term of Appointive Officers - Removal.(See UCA Section 10-3-1105.)

3-504. Supervision. The Mayor shall supervise the official conduct of all officers of the municipality and investigate or cause to be investigated and present any complaint to the governing body together with the results of the investigation at the next regular meeting of the governing body after the complaint is received by him.

3-505. Duties of All Officers. It shall be the duty of all officers of the municipality to:

- (A) Deliver to the successor within one week after the change of office all records, documents and property which belong to the municipality.
- (B) Deliver to the treasurer within one week after receipt of such funds all funds of the municipality which the officer receives.
- (C) Sign within a reasonable time all papers, documents, and records received by him which require his signature.
- (D) Perform all duties imposed on him by virtue of the office held.
- (E) Give receipts on forms provided by the recorder/clerk for all sums of money received, collected or paid them or their assistants.

TITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 3-600. Administrative Remedies. (Ord 07-02)

3-600. Administrative Enforcement and Remedies. Administrative remedies are intended as actions that may be applied to help ensure compliance with city ordinances, resolutions, regulations or any other city, state or federal requirements at a lower or administrative level to avoid costly or perhaps unneeded legal action. Unless otherwise specifically provided for in any ordinance, resolution or other regulation of the municipality or any code adopted by reference, the city council, mayor, or an enforcement official of the municipality may seek administrative remedies, in accordance with this chapter, to ensure compliance with any ordinance, resolution, or regulation of the municipality, or any other city, state or federal requirement, by any person, business, or other legal entity.

3-601. Administrative Enforcement Code.

- (A) **Short Title.** This title shall be known as the “Administrative Enforcement Code.” This Title shall also be known as Title 3 Chapter 600 of the North Logan City Code. It may be cited and pleaded under either designation.
- (B) **Purpose.** The City Council finds that the enforcement of the North Logan City Code and applicable state codes is an important public activity. Code enforcement is vital to the protection of the public’s health, safety, welfare, and quality of life. The City Council recognizes that code enforcement is effective only when done quickly and fairly. The City Council further finds that an enforcement system that allows a combination of judicial and administrative remedies is effective in correcting violations.
- (C) **Scope.** The provisions of this Title may be applied to all violations of the North Logan Municipal Code or applicable state codes which occur within North Logan City limits and such territory outside North Logan City limits over which the City has jurisdiction or control by virtue of any constitutional provision or law. This Title establishes an additional remedy that may be used by the City to achieve compliance with applicable codes.
- (D) **Existing Law Continued.** The provisions of this Title shall not invalidate any other title, chapter, or ordinance of the North Logan Municipal Code, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as additional remedy for enforcement of violations thereof.
- (E) **Criminal Prosecution Right.** The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or applicable code requirements. The enactment of this Title shall not be construed to limit the City’s right to prosecute any violation as a criminal offense. If the City chooses to file both an administrative action and criminal

TITLE 3. MUNICIPAL GOVERNMENT

charges for the same violation on the same day, no civil fees shall be assessed in the administrative action, but all other remedies contained herein shall be available.

- (F) **Effect of Headings.** Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Title.
- (G) **Severability.** If any section, subsection, sentence, clause, phrase, portion, or provision of this Title is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The City Council hereby declares that it would have adopted this Title and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This section shall apply to all amendments made to this Title.
- (H) **Civil Liability.** By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that North Logan City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.
- (I) **General Rules of Interpretation.** For purposes of this Title:
 - (1) Any gender includes the other gender.
 - (2) Days shall mean calendar days unless otherwise specifically defined.
 - (3) “Shall” is mandatory; “may” is permissive.
 - (4) The singular number includes the plural, and the plural the singular.
 - (5) Words used in the present tense include the past and future tense, and vice versa.
 - (6) Words and phrases used in this Title and not specifically defined shall be construed according to the context and ordinary usage of the language.
 - (7) Unless otherwise specified, the terms “hereof”, “herein”, and similar terms refer to this Title as a whole.
- (J) **Definitions Applicable to Title Generally.** In the construction of this Title, the following words and phrases shall be as defined as set forth in this section unless a

TITLE 3. MUNICIPAL GOVERNMENT

different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

- (1) “Administrative Citation” means a citation issued to a responsible person which gives notice of a violation and the civil fee for such violation.
 - (2) “Administrative Enforcement Order” means an order issued by a hearing examiner. The order may include an order to abate the violation, pay civil fees and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.
 - (3) “Administrative Enforcement Hearing” means a hearing, presided over by a panel of three hearing examiners and held pursuant to the procedures established by this Title and at the request of a responsible person.
 - (4) “Enforcement Official” means any city official authorized by the Mayor and City Council to enforce violations of the North Logan Municipal Code or applicable state codes.
 - (5) “Hearing Examiner(s)” means persons appointed by the Mayor or his designee to conduct the administrative enforcement hearings, one of which is designated to preside over the hearings.
 - (6) “Imminent Life Safety Hazard” means any condition that creates a serious and immediate danger to life, property, health, or public safety.
 - (7) “Notice of Compliance” means a signed document or form approved by the Nuisance Abatement Officer which indicates that a property complies with the requirements outlined in an administrative citation.
 - (8) “Notice of Emergency Abatement” means a written and signed notice that informs a responsible person of emergency abatement actions taken by the City and the costs of those actions, and orders payment for those costs.
- (K) **Acts Include Causing, Aiding, and Abetting.** Whenever any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting such act or omission.
- (L) **Service of Notice Requirements.** Whenever a notice is required to be given under this Title, the notice shall be served by one of the following methods, unless different provisions are otherwise specifically stated to apply:
- (1) Personal service;

TITLE 3. MUNICIPAL GOVERNMENT

- (2) Regular or registered mail, postage prepaid, to the last known address of a responsible person;
 - (3) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the City Administrator; or published in a newspaper of general circulation.
 - (4) Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.
 - (5) Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.
- (M) **General Enforcement Authority.** Whenever an enforcement official finds that a violation of the North Logan Municipal Code or applicable state codes has occurred or continues to exist, he may undertake any of the procedures herein. The City Administrator or any designated enforcement official shall have the authority to gain compliance with the provisions of the North Logan Municipal Code and applicable state codes subject to the provisions of this Title. Such authority shall include the power to issue administrative citations, inspect public and private property, abate nuisances on public and private property, and to use any remedy available under this Title or law.
- (N) **Adoption of Policy and Procedures.** The Mayor shall establish policies and procedures for the holding of administrative enforcement hearings, the appointment of hearing examiners, and the use of the administrative procedures herein by enforcement officials.
- (O) **Authority to Inspect.** Enforcement officials are hereby authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of the North Logan Municipal Code or applicable state codes are being obeyed and to make any reasonable examination or survey necessary to determine compliance with the North Logan Municipal Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If a property owner or responsible person refuses to allow an enforcement official to enter the property, the enforcement official shall obtain a search warrant before entering the property.
- (P) **False Information or Refusal Prohibited.** It shall be unlawful for any person to willfully make a false statement or refuse to give his name or address with intent to deceive or interfere with an enforcement officer when in the performance of his official duties under the provisions of this Title. A violation of this section shall be a class B misdemeanor.

TITLE 3. MUNICIPAL GOVERNMENT

- (Q) **Failure to Obey a Subpoena.** It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative enforcement hearing. A violation of this section shall be a class B misdemeanor.

3-602. Administrative Abatement.

- (A) **Purpose.** The North Logan City Council finds that an appropriate method of enforcement for violation of the North Logan Municipal Code and applicable state codes is by administrative abatement and through the use of an administrative citation. The procedures established in this chapter shall be an alternative and in addition to those procedures set forth in other chapters of the North Logan Municipal Code or state law. Any condition caused, maintained, or permitted to exist in violation of any provision of the North Logan Municipal Code or applicable state codes may be abated by the City pursuant to the procedures set forth in this chapter.
- (B) **Administrative Citations.** Upon discovering a violation of the North Logan Municipal Code or applicable state codes an enforcement official shall serve an administrative citation on the responsible person. The administrative citation shall be served in the manner prescribed in §3-601(L) of this Title. The enforcement official shall attempt to obtain the signature of the responsible person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, such failure or refusal shall not affect the validity of the citation and subsequent proceedings.
- (C) **Contents of Citation.** Each administrative citation shall contain the following information:
- (1) The date, name of the responsible person if possible, and location of all violations;
 - (2) Code sections violated and a description of the condition that violates the applicable code;
 - (3) All remedial action required to permanently correct any violation, which may include corrections, repairs, demolition, removal or other appropriate action;
 - (4) Identify the right to and the procedures for requesting an administrative enforcement hearing;
 - (5) The signature of the enforcement official and, if possible, the signature of the responsible person.

In addition to the above, the administrative citation may contain the following information as appropriate to the specific violation:

TITLE 3. MUNICIPAL GOVERNMENT

- (6) Specific date to correct the violation set forth in the citation.;
 - (7) Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the administrative citation, which may include, but is not limited to criminal prosecution; civil fees; revocation of permits; recordation of the administrative citation; withholding of municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies;
 - (8) The amount of civil fee imposed for each violation;
 - (9) An explanation of how the civil fee shall be paid, the time period in which the civil fee shall be paid, and the consequences of failure to pay the civil fee; and
 - (10) A statement describing compliance-inspection requirements and procedures.
- (D) **Requesting Hearings.** A responsible person shall have the right to an administrative enforcement hearing as prescribed in § 3-605 of this Title. A request for such hearing shall be in writing and shall be filed within thirty (30) days from the date of service of the administrative citation. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal.
- (E) **Failure to Correct.** It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a administrative citation. A violation of this section shall be a class B misdemeanor.
- (F) **Inspections.** It shall be the duty of the responsible person to request an inspection when a violation has been corrected and an inspection is required by the administrative citation. If no inspection is requested, it shall be deemed prima facie evidence that the violation remains uncorrected. If more than one inspection is necessary, an inspection fee of thirty dollars (\$30) shall be assessed for each subsequent inspection.
- (G) **Authority to Abate.** The City is hereby authorized to enter upon any property or premises to abate a violation of the North Logan Municipal Code and applicable state codes. The City shall assess all costs for abatement to the responsible person and may use any remedy available under the law to collect such costs. If additional abatement is necessary within two (2) years, triple costs shall be assessed against the responsible person for the actual abatement.
- (H) **Procedures for Abatement.** Non-emergency violations may be abated after thirty (30) days from the date the administrative citation is served unless a request for an

TITLE 3. MUNICIPAL GOVERNMENT

administrative enforcement hearing is filed. The violation may be abated by City personnel or by a private contractor acting under the direction of the City. City personnel or a private contractor may enter upon private property in a reasonable manner to abate a violation as specified in the administrative citation or administrative enforcement order.

- (1) If a responsible person abates the violation before the City abates the violation pursuant to an administrative citation or administrative enforcement order, the City may nevertheless assess all costs actually incurred by the City against the responsible person.
 - (2) When abatement is completed, the City shall prepare a notice of itemized bill for costs.
 - (3) The City shall serve the notice of itemized bill for costs by registered mail to the last known address of the responsible person. The notice shall demand full payment within thirty (30) days to North Logan City.
 - (4) The responsible person shall have the right to an administrative enforcement hearing to contest the notice of itemized bill for costs. A request for such hearing shall be in writing and shall be filed within thirty (30) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to such hearing and a waiver of the right to appeal.
- (I) **Procedures for Recordation.** For violations of the Nuisance Ordinances (Chapter 10-400) of the North Logan Municipal Code and any other applicable code, when an administrative citation has been served on a responsible person, and the violation remains uncorrected after the date to correct set forth in the administrative citation, and a request for an administrative enforcement hearing has not been timely requested, the City shall record the administrative citation with the Cache County Recorder's Office. If an administrative enforcement hearing is held, and an administrative enforcement order is issued, the City shall record the administrative enforcement order with the Cache County Recorder's Office. The recordation of an administrative enforcement order shall not be deemed an encumbrance of the property, but shall merely place interested parties on notice of any continuing violation found upon the property. Notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in §3-601(L) of this Title.
- (J) **Notice of Compliance.** When a violation is corrected, a responsible person shall request an inspection from the city. When the city receives such request, the responsible city official as determined by the Mayor or his designee shall re-inspect the property as soon as practicable to determine whether the violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required

TITLE 3. MUNICIPAL GOVERNMENT

by applicable codes. The City shall serve a notice of compliance to the responsible person and property owner in the manner provided in §3-601(L) herein if the city determines that:

- (1) All violations listed in the recorded administrative citation or administrative enforcement order have been corrected;
 - (2) All necessary permits have been issued and finalized;
 - (3) All assessed civil fees have been paid; and
 - (4) All assessed administrative fees and costs have been paid.
- (K) **Prohibition Against Issuance of Municipal Permits.** The City shall withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure where a violation is located. The City shall withhold such permits until a notice of compliance has been issued. The City shall not withhold permits necessary to obtain a notice of compliance or to correct serious health and safety violations.
- (L) **Civil Fees.** Civil fees shall be due and payable immediately upon expiration of the date to correct the violation. The civil fee for each violation listed on the administrative citation shall be twenty five dollars (\$25) if paid within ten (10) days of service. Civil fees shall be double if paid after ten (10) days but within thirty (30) days of service. Civil fees shall be triple if paid after after thirty (30) days of service. Payment of any civil fee shall not excuse a failure to correct a violation or any reoccurrence of the violation, nor shall it bar further enforcement action by the City. Civil fees shall be paid to North Logan City.

3-601. Emergency Abatement

- (A) **Emergency Abatement.** Whenever the city determines that an imminent life safety hazard exists that requires immediate correction or elimination, the city shall exercise the following powers without prior notice to the responsible person:
- (1) Order the immediate evacuation of any tenants, and prohibit occupancy until all repairs are completed;
 - (2) Post the premises as unsafe, substandard, or dangerous;
 - (3) Board, fence, or secure the building or site;

TITLE 3. MUNICIPAL GOVERNMENT

- (4) Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
 - (5) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
 - (6) Take any other action appropriate to eliminate the emergency.
 - (7) The City may, based on probable cause, enter property without a search warrant or court order to accomplish the above listed acts.
- (B) **Procedures.** The City shall document the life or safety hazard prior to emergency abatement. The City shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of a hazard. Costs incurred by the City during the emergency abatement process shall be assessed and recovered against the responsible person. The City may also pursue any other administrative or judicial remedy to abate any remaining violations. After an emergency abatement, the City shall, within ten (10) days serve notice of itemized bill for costs to the responsible person for the abatement action taken. Such notice shall include a description of the imminent life safety hazard. A responsible person has the right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within thirty (30) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided herein shall constitute a waiver to an administrative enforcement hearing and a waiver to the right to appeal.

3-602. Costs and Fees.

- (A) **Purpose.** The City Council finds that the costs incurred by enforcement officials and other City personnel to correct violations should be recovered from the responsible person. The City Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, re-inspection fees, filing fees, attorney fees, hearing examiner fees, title search, and any additional actual costs incurred by the City for each individual case. The assessment and collection of costs shall not preclude the imposition of any judicial fees or fines for violations of the North Logan Municipal Code or applicable state codes.
- (B) **Assessment of Costs.** Whenever actual costs are incurred by the City to enforce the North Logan Municipal Code and applicable state codes, such costs shall be assessed against the responsible person. The City shall serve the responsible person with an administrative citation and/or itemized bill for costs. The responsible person shall have a right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within thirty (30) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as

TITLE 3. MUNICIPAL GOVERNMENT

provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal.

- (C) **Failure to Timely Pay Costs.** The failure of any person to pay assessed costs by the deadline specified, in an invoice or judgment issued by an enforcement hearing, the city may place a lien in the several amounts assessed against each property, open area, ditch or right-of-way until paid and shall have priority over all other liens, except general taxes and prior special assessment liens. If any such assessment is not paid within thirty (30) days after it has been certified to the City Treasurer by the City Recorder and billed by the City Treasurer to the owner by deposit in the United States Mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the City, and any agents, representatives or occupants as may be known; the City Treasurer is hereby authorized to certify to the County Treasurer the list of delinquent assessments, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification is to be the same in substance and in form as required for the certification of other taxes. The County Treasurer, upon receipt of such certified list, is hereby authorized to place it upon the tax list for the current year and to collect, together with any charges as may by law be made by the County Treasurer and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes, and the redemption thereof shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property, open area, ditch or right-of-way is not subject to taxation, the City Treasurer may elect alternative means to collect the amounts due pursuant to the Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.
- (D) **Administrative Cost Fund.** Administrative costs and fees and Civil Fees, collected pursuant to this Title shall be deposited in the General Fund or other more appropriate fund as determined by the City Administrator, to reimburse City departments for costs associated with the administration of this Title. Fees and costs deposited in this fund shall be allocated pursuant to the City's budget process and as authorized by applicable law.

3-603. Administrative Enforcement Hearing Procedures

- (A) **Administrative Enforcement Hearings.** It is the purpose and the intent of the City Council that any responsible person shall be afforded due process of law during the enforcement process. Due process of law shall require adequate notice, an opportunity to request and to participate in any hearing, and an adequate explanation of the reasons justifying any resulting action. The following procedures are intended to establish a forum to resolve and correct violations of the North Logan Municipal Code and applicable state codes fairly, quickly, and efficiently while providing due process.

TITLE 3. MUNICIPAL GOVERNMENT

- (B) **Request for Administrative Enforcement Hearing.** A responsible person served with one of the following documents or notices shall have the right to request an administrative enforcement hearing, if the request is filed within thirty (30) calendar days from the date of service of one of the following notices:
- (1) Administrative citation
 - (2) Notice of emergency abatement or
 - (3) Notice of itemized bill for costs;
- (C) The request for an administrative enforcement hearing shall be made in writing and submitted to the City Recorder. As soon as practicable after receiving the written notice of the request for an administrative enforcement hearing, the appointed hearing examiners shall schedule a date, time and place for the administrative enforcement hearing. Failure to request an administrative enforcement hearing within thirty (30) calendar days from the date of service of any of the notices listed above shall constitute a waiver of the right to an administrative enforcement hearing and the right to an appeal.
- (D) **Notification of Administrative Enforcement Hearing.** Written notice of the date, time, and place of the administrative enforcement hearing shall be served to the responsible person as soon as practicable prior to its date. The notice shall be served by any of the methods of service set forth in §3-601(L) of this Title.
- (E) **Appointment and Qualifications of Hearing Examiner.** The Mayor or his designee shall appoint three (3) hearing examiners. One of the three Hearing Examiners shall be appointed by the Mayor to preside at administrative enforcement hearings. A Hearing Examiner shall have no personal or financial interest in the matter for which a hearing is being conducted;
- (F) **Powers of Hearing Examiners.** A hearing panel shall be composed of three hearing examiners and shall have authority to hold an administrative enforcement hearing for violations of the North Logan Municipal Code and applicable state codes.
- (1) The hearing examiners may continue a hearing for good cause shown by one of the parties or if the hearing examiners independently determine that due process has not been adequately afforded to such party.
 - (2) At the request of any party to an administrative enforcement hearing, the presiding hearing examiner may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed necessary by the presiding hearing examiner to decide issues at the hearing. All costs related to the subpoena including witness and mileage fees, shall be borne by the party requesting the subpoena.

TITLE 3. MUNICIPAL GOVERNMENT

- (3) The presiding hearing examiner has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative enforcement order; ensuring compliance of that order, which includes authorizing the City to enter and abate a violation; modifying an administrative enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
 - (4) Hearing examiners may require a responsible person to post a performance bond to ensure compliance with an administrative enforcement order.
 - (5) Hearing examiners shall not make determinations as to the existence of nonconforming rights. If a responsible person claims a nonconforming right as a defense, the presiding hearing examiner shall continue the administrative enforcement hearing and shall refer the matter to the North Logan Administrative Appeals Hearing Officer for a determination as to the existence of the nonconforming right. North Logan Administrative Appeals Hearing Officer's decision shall be binding on the hearing examiners. The responsible person shall bear the costs of the appeal to the North Logan Administrative Appeals Hearing Officer if the appeal is denied.
- (G) **Procedures at Administrative Enforcement Hearing.** Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be required. Any such request shall be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the administrative enforcement hearing shall follow duly adopted policies and procedures.
- (1) The City shall bear the burden of proof to establish the existence of a violation of the North Logan Municipal Code or applicable state codes.
 - (2) Such proof shall be established by a preponderance of the evidence.
 - (3) Each party shall have the opportunity to cross examine witnesses and present evidence in support of his case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.
 - (4) All administrative enforcement hearings shall be open to the public and shall be recorded by audiotape . Administrative enforcement hearings shall normally be held at the North Logan City office. In the discretion of the presiding hearing examiner, administrative enforcement hearings may be held at the location of the violation.

TITLE 3. MUNICIPAL GOVERNMENT

- (5) The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City at least one (2) days prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person.
- (6) The burden to prove any raised defenses shall be upon the party raising any such defense.
- (H) **Failure to Attend Administrative Enforcement Hearing.** A responsible person who fails to appear at an administrative enforcement hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, provided that prior notice of the hearing has been given as provided in §3-601(L) of this Title.
- (I) **Administrative Enforcement Order.** At any point prior to an enforcement hearing, a responsible person and the City may enter into a stipulated agreement, which shall be signed by both parties. Such agreement shall be entered as an administrative enforcement order. Entry of such agreement shall constitute a waiver of the right to an administrative enforcement hearing and the right to appeal. At the conclusion of an enforcement hearing, after all evidence and testimony are presented, the presiding hearing examiner shall issue a written administrative enforcement order that affirms, modifies, or rejects the notice or citation.
 - (1) A hearing panel may issue an administrative enforcement order that requires a responsible person to cease from violating the North Logan Municipal Code or applicable state codes and to take any necessary corrective action.
 - (2) A hearing panel may order the City to enter the property and abate all violations, including the removal of animals in violation of an applicable code requirement.
 - (3) A hearing panel may revoke the right as provided in the North Logan Municipal Code to possess animals, a kennel permit, or an animal license.
 - (4) As part of an administrative enforcement order, the hearing panel may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil fees on the responsible person's ability to take necessary corrective actions by specified deadlines.

TITLE 3. MUNICIPAL GOVERNMENT

- (5) A hearing panel may issue an administrative enforcement order imposing civil fees. Such fees shall continue to accrue until the responsible person complies with the hearing panel's decision and corrects the violation.
 - (6) A hearing panel may schedule subsequent review hearings as may be necessary or as requested by the City to ensure compliance with an administrative enforcement order.
 - (7) The hearing panel may order a responsible person to post a performance bond to ensure compliance with an administrative enforcement order.
 - (8) An administrative enforcement order shall become final on the date of signing by the presiding hearing examiner.
 - (9) An administrative enforcement order shall be served on all parties by any one of the methods listed in §3-601(L) of this Title. When required by this Title, the City Recorder shall record the administrative enforcement order with the Cache County Recorder's Office.
 - (10) After a hearing examiner has issued an administrative enforcement order, the City Administrator or a designated enforcement official appointed by the City Administrator shall monitor the matter for compliance with the administrative enforcement order.
- (J) **Failure to Comply.** It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a final administrative enforcement order. A violation of this section shall be a class B misdemeanor.
- (K) **Appeal.** Any responsible person adversely affected by a final administrative enforcement order made in the exercise of the provisions of this Title may file a petition for review in the district court.
- (1) The petition shall be barred unless it is filed within 30 days after the administrative enforcement order is final.
 - (2) In the petition, the plaintiff may only allege that the administrative enforcement order was arbitrary, capricious or illegal.
 - (3) The court shall:
 - (a) Presume that the administrative enforcement order is valid;

TITLE 3. MUNICIPAL GOVERNMENT

- (b) Review the record to determine whether the order was arbitrary, capricious, or illegal; and
 - (c) Affirm the administrative enforcement order if it is supported by substantial evidence in the record. The record of the proceedings including minutes, findings, orders and, if available, a true and correct audio recording of the proceeding shall be transmitted to the reviewing court.
- (4) If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection. If there is a record, court review shall be limited to the record of the proceeding. The court may not accept or consider any evidence outside such record unless that evidence was offered to the hearing examiner and the court determines that it was improperly excluded by the hearing examiner. The court may call witnesses and take evidence if there is no record.
- (5) The filing of a petition does not stay execution of an administrative enforcement order. Before filing a petition, a responsible person may request the hearing examiner to stay an administrative enforcement order. Upon receipt of a request to stay, the presiding hearing examiner may order the administrative enforcement order to be stayed pending district court review if the presiding hearing examiner finds such stay to be in the best interest of the City.

(Ord 07-02)

TITLE 3. MUNICIPAL GOVERNMENT

3-700. Government Records Access and Management Act.

3-701. Short title. This ordinance is known as the North Logan City Government Records Access and Management Act. (Ord. 92-8)

3-702. Purpose and Intent.

- (A) In enacting this chapter, the City recognizes two constitutional rights:
- (1) The right of privacy in relation to personal data gathered by the city; 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 city to:
- (1) Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records:
 - (2) Provide 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 economical and efficient management of the city's records as provided in this chapter.

(Ord. 92-8)

3-703. Definitions. As used in this chapter:

- (A) "Audit" means:
- (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.
- (B) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general

TITLE 3. MUNICIPAL GOVERNMENT

nature of police, fire, and paramedic calls made to the agency and any arrests or jail bookings made by the agency.

- (C) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Utah Code Section 63-2-201(3)(b).
- (D) "Computer program" means 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 would be used if the manipulated forms of the original data were to be produced manually.
- (E) "Contractor" means:
- (1) Any person who contracts with the city to provide goods or services directly to the city; or
 - (2) Any private, nonprofit organization that receives funds from the city.
- (F) "Contractor" does not mean a private provider.
- (G) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 3-711.
- (H) "Designation," in "designate," and their derivative forms mean indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.
- (I) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance

TITLE 3. MUNICIPAL GOVERNMENT

pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

- (J) "Individual" means a human being.
- (K) "Initial contact report" means 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:
- (1) The date, time, location, and nature of the complaint, the incident, or offense;
 - (2) Names of victims;
 - (3) The nature or general scope of the agency's initial actions taken in response to the incident;
 - (4) The general nature of any injuries or estimate of damages sustained in the incident;
 - (5) The name, address, and other identifying information about any person arrested or charged in connection with the incident; or
 - (6) The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.
- (L) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in this definition appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Section 63-2-201(3)(b) of the Utah Code.
- (M) "Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.
- (N) "Private provider" means any person who contracts with the city to provide services directly to the public.
- (O) "Private record" means a record containing data on individuals that is classified private as provided by Section 3-710.
- (P) "Protected record" means a record that is classified protected as provided by Section 3-712.

TITLE 3. MUNICIPAL GOVERNMENT

- (Q) "Public Record" means a record that has not been appropriately classified private, controlled, or protected as provided in Section 3-701, 3-711 and 3-712 of this chapter.
- (R) "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics, prepared, owned, used received, or retained by the city; "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 is working;
 - (2) Materials that are legally owned by an individual in his 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 city;
 - (4) Proprietary software;
 - (5) Junk mail or commercial publications received by the city or an official or employee of a the city;
 - (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 is working;
 - (8) Computer programs as defined that are developed or purchased by or for the city 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.
- (S) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

TITLE 3. MUNICIPAL GOVERNMENT

- (T) "Records officer" means the city recorder and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.
- (U) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

(Ord. 92-8)

3-704. Right to 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 Section 3-706 of this chapter.
- (B) All records are public unless otherwise expressly provided by this chapter or state or federal law or regulations.
- (C) The following records are not public:
 - (1) Records that are appropriately classified private, controlled, or protected as allowed by Sections 3-710, 3-711, and 3-712 of this chapter; 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 Sections 3-710, 3-711, and 3-712 may be classified private, controlled, or protected.
- (E)
 - (1) The city may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (E)(2), of this section or Section 3-705.
 - (2) The city may, at its discretion, disclose records that are private under Subsection 3-710 (B) or protected under Section 63-2-304 to persons other than those specified in Section 63-2-202 or 63-2-206 if the head of the city, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweighs the interest favoring restriction of access.

TITLE 3. MUNICIPAL GOVERNMENT

- (F)
- (1) The disclosure of records to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.
 - (2) This chapter applies to records described in Subsection (1) of this section insofar as this chapter is not inconsistent with the statute, rule, or regulation.
- (G) The city shall provide a person with a certified copy of a record if:
- (1) The person requesting the record has a right to inspect it;
 - (2) Identifies the record with reasonable specificity; and
 - (3) The person pays the lawful fees.
- (H)
- (1) The city is not required to create a record in response to a request.
 - (2) Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.
- (I) If a person requests copies of more than fifty (50) pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:
- (1) Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or
 - (2) Allow the requester to provide his own copying facilities and personnel to make the copies at the city offices and waive the fees for copying the records.
- (J)
- (1) If the city owns an intellectual property right and that offers the intellectual property right for sale, or license, the city may control by ordinance or policy the duplication and distribution of the material based on terms the city considers to be in the public interest.
 - (2) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.

TITLE 3. MUNICIPAL GOVERNMENT

- (K) A city may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of persons to inspect and receive copies of a record under this chapter.

(Ord. 92-08)

3-705. Access to Nonpublic Records.

- (A) Upon request, a city 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 record
 - (4) Any other individual who:
 - (a) Has a power of attorney from the subject of the record;
 - (b) Submits a notarized release from the subject of the record or his legal representative dated no more than ninety (90) days before the date the request is made; or
 - (c) Any person to whom the record must be provided pursuant to court order.
- (B)
- (1) Upon request, the city shall disclose a controlled record to:
 - (a) A physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency upon submission of a release from the subject of the record that is dated no more than ninety (90) days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (B) (2) of this section; and
 - (b) Any person to whom the record must be disclosed pursuant to court order.

TITLE 3. MUNICIPAL GOVERNMENT

- (2) A person who receives a record from the city in accordance with Subsection (B)(1)(a) of this section 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 city 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 all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than ninety (90) days prior to the date the request is made; or
 - (3) Any person to whom the record must be provided pursuant to a court order.
- (E) The city may disclose a private, controlled, or protected record to another governmental entity, city, another state, the United States, or a foreign government only as provided by Utah Code 63-2-206.
- (F) Before releasing a private, controlled, or protected record, the city shall obtain evidence of the requester's identity.
- (G) The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
 - (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; and
 - (3) The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of

TITLE 3. MUNICIPAL GOVERNMENT

records protected under Subsections 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 Section 3-704 (C) (2), the court has authority independent of this chapter to order disclosure.

(H)

- (1) The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:
 - (a) Determines that the research purpose cannot reasonably be accomplished without use or 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, except as provided in Subsection (H)(2) of this section, or from using the record for purposes other than the research approved by the city; and
 - (e) Secures from the researcher a written statement of his understanding of and agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Section 63-2-801 of the Utah Code.
- (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 city may require indemnification as a condition of permitting research under this subsection.

TITLE 3. MUNICIPAL GOVERNMENT

(I)

- (1) Under Section 3-704 (E) (2) and Section 3-716 (D) the city may disclose records that are private under Section 3-710, or protected under Section 3-712 to persons other than those specified in this section.
- (2) Under Section 3-716 the city council may require the disclosure of records that are private under Section 3-710, controlled under Section 3-711 or protected under Section 3-712 to persons other than those specified in this section.
- (3) Under Subsection 63-2-404(8) of the Utah Code the court may require the disclosure of records that are private under Section 3-710, controlled under Section 3-711, or protected under Section 3-713 to persons other than those specified in this section.

(Ord. 92-8)

3-706. Fees. The city may charge a reasonable fee to cover the city's actual cost of duplicating or compiling a record in a form other than that maintained by the city. The fees may be set by resolution. The initial fee, until changed by resolution, is as set forth in Exhibit A attached to the ordinance codified in this chapter and on file in the office of the city clerk.

(A) The city may fulfill a record request without charge when it determines that:

- (1) Releasing the record primarily benefits the public rather than a person;
- (2) The individual requesting the record is the subject of the record.
- (3) The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(B) The city may not charge a fee for:

- (1) Reviewing a record to determine whether it is subject to disclosure; or
- (2) Inspecting a record.

(Ord. 92-8)

3-707. Procedures for Access.

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

TITLE 3. MUNICIPAL GOVERNMENT

- (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 city 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 Subsection (D) of this section, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time and date when the records will be available.
- (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 city to delay approval or denial by an additional period of time as specified in Subsection (E) of this section if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (B) of this section:
- (1) Another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession return the record;
 - (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 city is currently processing a large number of records requests;
 - (5) The request requires the city to review a large number of records to locate the records requested;

TITLE 3. MUNICIPAL GOVERNMENT

- (6) The decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;
 - (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 Subsection (D) of this section, precludes approval or denial within the time specified in Subsection (B) of this section, the following time limits apply to the extraordinary circumstances:
- (1) For claims under Subsection (D)(1) of this section, 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 Subsection (D)(2) of this section, the originating city shall notify the requester when the record is available for inspection and copying;
 - (3) For claims under Subsections (D)(3), (4), and (5) of this section, the city 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 the requester is entitled to inspect as soon as reasonably possible;
 - (4) For delays under Subsection (D)(6) of this section, the city 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 Subsection (D)(8) of this section, the city shall fulfill the request within 15 business days from the date of the original request; or
 - (6) For delays under Subsection (D)(8) of this section, the city shall complete its programming and disclose the requested records as soon as reasonably possible.

TITLE 3. MUNICIPAL GOVERNMENT

- (F) If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

(Ord. 92-8)

3-708. Denials.

- (A) If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the 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 chapter, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information;
 - (3) Statement that the requester has the right to appeal the denial to the City 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 city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

(Ord. 92-8)

3-709. Records that Must Be Disclosed.

- (A) The following records are public:
- (1) Laws and ordinances;

TITLE 3. MUNICIPAL GOVERNMENT

- (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 qualifications of the city's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
- (3) Final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;
- (4) Final interpretations of statutes or rules by the city unless classified as protected as provided in Subsections (15), (16), and (17) of Section 3-712;
- (5) Information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of the city including the records of all votes of each member of the City 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 ordinance;
- (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 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 incorporations, mergers, name changes, and uniform commercial code filings;
- (9) Data on individuals that would otherwise be private under this ordinance if the individual who is the subject of the record has given the city written permission to make the records available to the public;
- (10) Documentation of the compensation that the city pays to a contractor or private provider; and

TITLE 3. MUNICIPAL GOVERNMENT

- (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 Subsection 3-704 (C) (2) or sections 3-710, 3-711, or 3-712:
- (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 city;
 - (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 city;
 - (4) Contracts entered into by the city;
 - (5) Any account, voucher, or contract that deals with the receipt or expenditure of funds by the city;
 - (6) Records relating to government assistance or incentives publicly disclosed, contracted for, or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63-2-304(34) of the Utah Code;
 - (7) Chronological logs and initial contact reports;
 - (8) Correspondence by and with the city in which the city 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 city 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 city 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;

TITLE 3. MUNICIPAL GOVERNMENT

- (11) Drafts that have never been finalized but were relied upon by the city in carrying out action or policy;
 - (12) Original data in a computer program if the city 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 city 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 Section 63-46b-3 of the Utah Code, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline.
- (C) The list of public records in this section is not exhaustive and should not be used to limit access to records.

3-710. Private Records.

- (A) The following records are private:
 - (1) Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

TITLE 3. MUNICIPAL GOVERNMENT

- (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 for a Senate or House Ethics Committee concerning any alleged violation of the rules on legislative ethics, if the ethics committee meeting was closed to the public;
 - (5) Records concerning a current or former employee of, or applicant for employment with, the city 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 city:
- (1) Records concerning a current or former employee of, or applicant for employment with the city, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under sections 3-709 (A) (2), 3-709 (B) (15) or subsection (A) (5) of this section.
 - (2) Records describing an individual's finances, except that the following are public:
 - (a) Records described in Section 3-709 (A);
 - (b) Information provided to the city 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 government 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.

TITLE 3. MUNICIPAL GOVERNMENT

(Ord. 92-8)

3-711. Controlled Records. A record is controlled only if:

- (A) The record contains medical, psychiatric, or psychological data about an individual;
- (B) The governmental entity 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; or
 - (2) Releasing the information would constitute a violation of normal professional practice and medical ethics; and
 - (3) The city has properly classified the record.

(Ord. 92-8)

3-712. Protected Records. The following records are protected if properly classified by the city:

- (1) Trade secrets as defined in Section 13-24-2 of Utah Code Annotated if the person submitting the trade secret has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated;
- (2) Commercial information or non-individual financial information obtained from a person if:
 - (a) Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the city to obtain necessary information in the future;
 - (b) The person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and
 - (c) The person submitting the information has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated;
- (3) Commercial or financial information acquired or prepared by the city to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy;

TITLE 3. MUNICIPAL GOVERNMENT

- (4) Test questions and answers to be used in future license, certification, registration, employment, or academic examinations;
- (5) Records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;
- (6) Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
 - (a) Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible;
 - (b) The information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
 - (c) In the case of records that would identify property, potential sellers of the described property have already learned of the city's plans to acquire the property; or
 - (d) In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property;
- (7) Records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
 - (a) The public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction; or
 - (b) When prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;
- (8) Records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

TITLE 3. MUNICIPAL GOVERNMENT

- (a) Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
 - (b) Reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
 - (c) Would create a danger of depriving a person of a right to a fair trial or impartial hearing;
 - (d) Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
 - (e) Reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts
- (9) Records the disclosure of which would jeopardize the life or safety of an individual;
- (10) Records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record-keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
- (11) Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- (12) Records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
- (13) Records and audit work papers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

TITLE 3. MUNICIPAL GOVERNMENT

- (14) Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
- (15) Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;
- (16) Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation;
- (17) Records of communications between the city and an attorney representing, retained, or employed by the city if the communications would be privileged as provided in Section 78-24-8 of Utah Code Annotated;
- (18) Drafts, unless otherwise classified as public;
- (19) Records concerning the city's strategy about collective bargaining or pending litigation;
- (20) Records of investigations of loss occurrences and analyses of loss occurrences;
- (21) Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;
- (22) Records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;
- (23) Records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;
- (24) Records provided by the United States or by a government entity outside the state that are given to the city with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;
- (25) Transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meetings Act;

TITLE 3. MUNICIPAL GOVERNMENT

- (26) Records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;
- (27) Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;
- (28) Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and
- (29) Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets.

(Ord. 92-8)

3-713. Records Classification and Designation.

- (A) The city shall:
 - (1) Evaluate all record series that it uses or creates;
 - (2) Designate those record series as provided by this chapter; and
 - (3) Report the designations of its record series to the state archives.
- (B) The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.
- (C) The city may re-designate a record series or reclassify a record or record series, or information within a record at any time.

(Ord. 92-8)

3-714. Records Retention. The city shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit B attached to the ordinance codified in this chapter and on file in the office of the City Clerk. (Ord. 92-8)

TITLE 3. MUNICIPAL GOVERNMENT

3-715. Segregation of Records. Notwithstanding any other provision in this chapter, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

- (A) Shall allow access to information in the record that the requester is entitled to inspect under this chapter; 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.

(Ord. 92-8)

3-716. Appeals.

- (A)
 - (1) Any person aggrieved by the city's access determination under this chapter, including a person not a party to the city's proceeding, may appeal the determination to the Mayor by filing a notice of appeal.
 - (2) If the city claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty (30) days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent.
- (B)
 - (1) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63-2-308 of the Utah Code, the City Recorder shall:
 - (a) 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
 - (b) Send notice of the business confidentiality claim and the schedule for the City Recorder's determination to the requester within three business days after receiving notice of the requester's appeal.
 - (2) The claimant shall have seven business days after notice is sent by the City Recorder to submit further support for the claim of business confidentiality.

TITLE 3. MUNICIPAL GOVERNMENT

- (C)
- (1) The Mayor shall make a determination on the 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 twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.
 - (2) If the mayor fails to make a determination within the time specified in Subsection (3)(a), 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 Section 3-710 (B) or protected under Section 3-712 if the interests favoring access outweigh the interests favoring restriction of access.
- (E) The city shall send written notice of the determination of the Mayor officer to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the City Council, and the time limits for filing an appeal.
- (F) The duties of the mayor under this section may be delegated.
- (G) The notice of appeal to the City Council must be filed with the City Recorder no later than thirty days after the Mayor has denied the appeal or fails to make a determination within the time specified in subsection (C) (1) of this section.
- (H) The notice of appeal shall contain the following information:
- (1) The petitioner's name, mailing address, and daytime telephone number;
 - (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 business days after receiving a notice of appeal, the recorder shall:

TITLE 3. MUNICIPAL GOVERNMENT

- (1) Schedule a hearing for the City Council to discuss the appeal which shall be held no sooner than fifteen days and no later than thirty days from the date of the filing of the appeal;
 - (2) At the hearing, the City Council shall allow the parties to testify, present evidence, and comment on the issues. The City Council may allow other interested persons to comment on the issues.
 - (3) No later than three business days after the hearing, the City Council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part.
 - (4) The order of the city shall include:
 - (a) A statement of reasons for the decision, including citations to this ordinance 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 city'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 city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a non-requestor is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal.

(Ord. 92-8)

3-717. Judicial review. Any party to a proceeding before the City Council may petition for judicial review by the district court of the City Council's order. The petition shall be filed no later than 30 days after the date of the City Council's order. (Ord. 92-8)

3-718. Confidential Treatment of Records for Which No Exemption Applies.

TITLE 3. MUNICIPAL GOVERNMENT

- (L) 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 are compelling interests favoring restriction of access to the record; and
 - (2) The interests favoring restriction of access clearly outweigh the interests favoring access.
- (M) If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorneys' fees incurred by the lead party in opposing the city'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.
- (N) This section does not apply to records that are specifically required to be public under Section 3-709 of this chapter or section 63-2-301 of the Utah Code, except as provided in Subsection (D) of this section.
- (O)
- (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 interests that relate to the underlying information, and not to 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 interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

(Ord. 92-8)

3-719. Request to Amend a Record.

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

TITLE 3. MUNICIPAL GOVERNMENT

- (2) The request shall contain the following information:
 - (a) The requestor's name, mailing address, and daytime telephone number; and
 - (b) A brief statement explaining why the city should amend the record.
- (B) The city shall issue an order either approving or denying the request to amend no later than thirty days after receipt of the request.
- (C) If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until it has amended it.
- (D) If the city denies the request is shall:
 - (1) Inform the requestor in writing; and
 - (2) Provide a brief statement giving its reasons for denying the request.
- (E)
 - (1) If the city denies a request to amend a record, the requestor may submit a written statement contesting the information in the record.
 - (2) The city shall;
 - (a) File the requestor's statement with the disputed record if the record is in a form such that the statement can accompany the record or make a statement accessible of the record is not in a form such that the statement can accompany the record; and
 - (b) Disclose the requestor's statement along with the information in the record whenever the city discloses the disputed information.
- (F) The requestor may appeal the denial of the request to amend a record pursuant to Section 3-716 of this chapter.
- (G) This section does not apply to records relating to title or real property or personal property, medical records, judicial case files, or any other records that the city determines must be maintain in their original form to protect the public interest and to preserve the integrity of the record system.

(Ord. 92-8)

TITLE 3. MUNICIPAL GOVERNMENT

3-720. Rights of Individuals on Whom Data is Maintained.

- (A)
 - (1) The city shall file with the state archivist a statement explaining the purposes for which record series designated private or controlled are collected and used by that city.
 - (2) That statement is a public record.
- (B) Upon request, the city shall explain to an individual:
 - (1) The reasons the individual is asked to furnish to the city information that could be classified private or controlled;
 - (2) The intended uses of the information; and
 - (3) The consequences for refusing to provide the information.
- (C) The city may not use private or controlled records for purposes other than those given in the statement filed with the state archivist under subsection (A) of this section or for purposes other than those for which another governmental entity could use the record under Section 63-2-206.

(Ord. 92-8)

3-721. Criminal Penalties.

- (A)
 - (1) 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.
 - (2) It is a defense to prosecution under subsection (A) (1) of this section that the actor released private, controlled or protected information on 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.
 - (3) It is a defense to prosecution under subsection (A) (1) of this section that the record could have lawfully been released to the recipient if it had been properly classified.

TITLE 3. MUNICIPAL GOVERNMENT

- (B)
- (1) A person who by false pretense, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which he is not legally entitled is guilty of a Class B Misdemeanor.
 - (2) No person shall be guilty under subsection (B) (1) of this section who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
- (C) A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final un-appealed order from the city, the records committee, or a court, is guilty of a class B Misdemeanor.

(Ord. 92-8)

TITLE 3. MUNICIPAL GOVERNMENT

3-800. Redevelopment Agency (Ord. 03-12)

3-801. Establishment. Pursuant to the provisions of Title 17B, Chapter 4, Utah Code, the municipal council of North Logan City hereby establishes and designates a redevelopment agency for the purpose of implementing the Utah Neighborhood Redevelopment Agencies Act, as amended hereafter, which provides as follows:

3-802. Designation. The municipal council of North Logan City shall constitute the redevelopment agency for and on behalf of North Logan City.

3-803. Powers.

- (1) The said agency shall have the power to contract in the name of the redevelopment agency and to have all powers necessary to transact business and exercise all powers provided for in the Utah Neighborhood Redevelopment Agencies Act, or as amended by the state legislature hereafter.
- (2) The agency shall have the right and power to accept financial and other assistance from any public or private source for the agency's activities and to extend any funds so received for any purposes authorized under the state act.
- (3) The agency may borrow or accept financial or other assistance from the state or federal government for any redevelopment project within scope of the said act and may comply with any conditions of said loan or grant.
- (4) The agency shall be authorized to cooperate with similar agencies of other communities for joint planning and joint development of any particular project enacted pursuant hereto.
- (5) The agency is authorized to employ such help as is necessary to meet the requirements of the Utah Neighborhood Redevelopment Agencies Act and provide from the funds available to the agency for payment and compensation of such employees in developing particular plans pursuant to the act.
- (6) The agency is authorized to hold public hearings pursuant to particular projects area development plans and to do all other acts considered necessary and proper pursuant to the state law.
- (7) The municipal council of North Logan City shall likewise have the power to modify, amend or make such other changes as are necessary to comply with and meet the needs of the agency.

TITLE 3. MUNICIPAL GOVERNMENT

3-900. Mayor's Advisory Boards and Committees.

The Mayor may establish, by executive directive, boards and committees within the city to assist the Mayor, the City Council and/or city staff in the performances of their duties. These advisory boards and committees shall have no authority to expend or disburse funds, incur any financial liability in the name of the city, establish city policies or procedures, or make decisions regarding the city's business. Any advisory boards or committees thus established by the mayor shall only have the authority to advise and make recommendations to the mayor, the city council, the planning commission, and/or the city staff. The mayor may establish from time to time, policies and procedures by which these advisory boards and committees shall be administered.

(Ord. 06-04, 06-21)