

RESOLUTION NO. R-2023-0029

A RESOLUTION BY THE OREM CITY COUNCIL REQUESTING
RECERTIFICATION OF THE OREM MUNICIPAL JUSTICE COURT
BY THE JUSTICE COURT STANDARDS COMMITTEE AND THE
UTAH JUDICIAL COUNCIL

WHEREAS the City of Orem has been operating a Municipal Justice Court; and

WHEREAS each Municipal Justice Court in Utah must be recertified every four years; and

WHEREAS the current certification for Orem's Municipal Justice Court expires in January 31, 2024, and it is now time to apply for recertification; and

WHEREAS the members of the Orem City Council have received an opinion letter from the Orem City Attorney which sets forth the requirements for the operation of a Justice Court and the feasibility of continuing to maintain a Justice Court in Orem; and

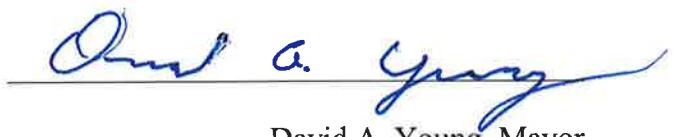
WHEREAS the Orem City Council has determined that it is in the best interest of the City of Orem to continue providing for a Justice Court in Orem.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OREM, UTAH, as follows:

1. The Orem City Council hereby requests the Justice Courts Standards Committee and the Utah Judicial Council to recertify Orem's Municipal Justice Court
2. The Orem City Council hereby affirms its willingness to continue to meet all requirements set forth by the Judicial Council for the continued operation of the Orem Municipal Justice Court for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.
3. The Orem City Council hereby authorizes and directs City staff to complete any other actions necessary to complete the recertification process.

4. All acts, orders, resolutions, and ordinances, and parts thereof, in conflict with this Resolution are hereby rescinded.
5. This Resolution shall become effective immediately upon passage.

PASSED AND APPROVED this 14th day of November 2023.



David A. Young, Mayor

ATTEST:



Teresa McKittrick, City Recorder



COUNCILMEMBER YES NO ABSTAIN

David A. Young

Jeff Lambson

Debby Lauret

Tom Macdonald

LaNae Millett

Terry Peterson

David Spencer

November 10, 2023

Mayor and City Council Members
56 North State Str.
Orem, UT 84057

Dear Mayor and City Council Members,

At the November 14, 2023 City Council meeting, you will be considering a resolution requesting the Utah Judicial Council to recertify Orem's Municipal Justice Court. In the proposed resolution, the City Council also expresses its willingness to continue complying with Judicial Council standards for operating a Justice Court. As part of this recertification process, I am required to give you a written opinion advising you of all requirements for operating a justice court and giving my opinion on the feasibility of maintaining a justice court in Orem.

Requirements for Operating a Justice Court

I will list the statutory and administrative rule requirements for maintaining a justice court in Orem. Orem currently complies with all of these requirements.

State Statutes

Statutory Requirements. Statutes of the State of Utah require that certain standards be met in the operation of a justice court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Section 78A-7-213).
2. Each court shall be open and judicial business shall be transacted every day as provided by law (Section 78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (Section 78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (Section 78A-7-213).
5. The entity operating the justice court shall provide and compensate a judge and clerical personnel to conduct the business of the court (Section 78A-7-206).

6. The entity operating a justice court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (Section 78A7-205).
7. The entity operating a justice court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A7-103).
8. The entity operating the justice court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-103).
9. The entity operating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-103).
10. The entity operating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-103).
11. Witness and jury fees as required by law shall be paid by the entity which operates the court (Sections 10-7-76 and 17-50-319).
12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Sections 78A-7-120 and 78A-7-121).
13. Every entity operating a court shall pay the judge of that court a fixed compensation, within the range provided by statute (Section 78A-7-206).
14. Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).
15. The entity operating the court shall provide and keep current for the court a copy of the Utah Code, the Utah Court Rules Annotated, the justice court manual published by the state court administrator, the county, city, or town ordinances as appropriate, and other legal reference materials as determined to be necessary by the judge (Section 78A-7-103).
16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council (Section 78A-7-215).
17. All justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council (Section 78A-7-213).

Judicial Council Rules

In addition to those requirements which are directly imposed by statute, the Judicial Council has established additional requirements for the creation and ongoing certification of justice courts, as follows:

1. A clerk shall be available for at least one hour each day that the court is required to be open and during court hearings, as required by the judge. These hours shall be posted on the court's website.
2. The judge shall be available to conduct court business as needed, performing all duties required and exercising ultimate responsibility for the administration of justice as an independent branch of government.
3. All court hearings shall be conducted in a designated courtroom, including remote transmission, as permitted by the Judicial Council, or in another location authorized by the Presiding Judge.
4. The minimum furnishings for a courtroom shall include: a desk and chair for the judge (on a riser at least six inches above the well), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses, which is separate from the public, as well as a judicial robe, a gavel, and necessary forms and supplies.
5. Office space for the judge and clerk shall be appropriate. (Under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed.) The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box for each clerk performing cashiering duties, a computer with word processing software, and access to a scanner and copy machine.
6. The court shall provide interpreters as required by Rule 3-306.04 of the Code of Judicial Administration.
7. The entity shall have at least one peace officer (which may be contracted).
8. A current court security plan shall be submitted for approval as required by Rule 3- 414 of the Code of Judicial Administration.
9. Each court shall have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to the Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.

10. Each court shall report required case disposition information to the DLD, BCI and the Administrative Office of the Courts electronically, as described in requirement 9 above.
11. Clerks' education hours shall be reported to the Administrative Office of the Courts on an annual basis.
12. The appointment of the clerk(s) assigned to serve the court shall be subject to the judge's approval, who may participate in the interview and personnel evaluation process for the clerk(s) at his or her discretion.
13. Court staff shall be certified as contemplated by Rule 3-303 of the Code of Judicial Administration.
14. Any interlocal agreement relating to court operations, as amended to date, shall be provided to the Justice Court Administrator.
15. The court shall accept credit and debit cards through a system that integrates with CORIS.
16. The court shall have access to UCJIS.
17. An audio recording system shall maintain a digital recording of all court proceedings (78A-7-103).
 - a. For Class I and Class II justice courts, the system must:
 - i. be a stand-alone unit that records and audibly plays back the recording;
 - ii. index, back-up and archive the recording and enable the record to be retrieved;
 - iii. have at least four recording channels;
 - iv. have a one step "on" and "off" recording function;
 - v. have conference monitoring of recorded audio;
 - vi. have external record archiving from the unit with local access;
 - vii. be capable of being integrated with the courts public address system; and
 - b. For Class III and Class IV justice courts, the system must, at a minimum:
 - i. be a stand-alone unit that records and audibly plays back the recording;
 - ii. index, back-up and archive the recording and enable the record to be retrieved; and
 - iii. have at least two recording channels.
 - c. The Board of Justice Court Judges may create a list of products that meet these criteria.

Additional Requirements for Class I Justice Courts

Courts which have an average monthly filing of more than 500 cases (such as Orem's Justice Court) are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three full-time clerks, at least one of whom is available during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and must have a judge's chambers and clerk's office that cannot be shared by another entity.

Feasibility of Maintaining a Justice Court in Orem

In my opinion, it is feasible for Orem to continue operating a Municipal Justice Court. In reaching this opinion, I have corresponded with Justice Court Administrator Jody Thenot, Finance Director Brandon Nelson, and Deputy City Attorney Jake Summers, to get their perspectives on the current operation and funding of the Orem Justice Court.

Please feel free to call me if you have any questions or concerns.

Best Regards,

Steven C. Earl
Orem City Attorney

COURT CERTIFICATION AFFIDAVIT

Justice Court: Orem Justice Court

Judge: Reed Parkin

Address: 97 E Center, Orem, Utah 84057

Telephone: 801-724-3900

Court's Website: court.orem.org

Level of Court: I

Average Case Filings Per Month: 883

Daily Court Hours: 8:00 am - 5:00 pm

Number of Full-time Clerks: 7

Hours Worked Per Week Per Clerk: 40 hours

Number of Part-time Clerks: 2

Hours Worked Per Week Per Clerk: 10 hours

This form is divided into two parts. Section I contains those requirements that are statutory and cannot be waived. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the Instructions to Applicant included with this Application for Recertification.

Comes now Judge Reed Parkin, Justice Court Judge for Orem Justice Court, and, except as specifically noted below, certifies as follows:

SECTION I

**THE FOLLOWING ITEMS ARE STATUTORY AND CANNOT BE WAIVED.
CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS
MET.**

Please indicate Yes or No to each of the following:

1. All official court business is conducted in a public facility. YES
2. Court is open daily. YES
3. The hours of court operation are posted conspicuously. YES
4. The judge and the clerk attend court at regularly scheduled times based on the level of the court. YES
5. The judge is compensated at a fixed rate, within the statutory range. YES
6. The responsible governmental entity provides and compensates sufficient clerical personnel necessary to conduct the business of the court. YES
7. The responsible governmental entity assumes the expenses of the travel of the judge for purposes of required judicial education. YES
8. The responsible governmental entity assumes the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. YES
9. The responsible governmental entity provides the Court with:
 - a. Sufficient prosecutorial support YES
 - b. Funding for attorneys for indigent defendants, as appropriate YES
 - c. Sufficient local law enforcement officers to attend court as provided by statute YES
 - d. Security for the court as provided by statute YES
 - e. Witness and juror fees YES
 - f. Appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances and other necessary legal reference materials YES
10. Fines, surcharges and assessments which are payable to the state are forwarded as required by law. YES

11. Court is held within the jurisdiction of the court, except as provided by law (78A-7-212). YES
12. All required reports and audits are filed as required by law or Rule of the Judicial Council. YES
13. A record of all court proceedings is maintained by an appropriate digital recording system. YES

SECTION II

Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the Instructions to Applicant included with this Application for Recertification.

Please indicate **YES** or **NO** to each of the following:

1. A clerk is available each day to conduct court business, including hearings as required by the judge, for the number of hours required for the classification of the court. **YES**
2. Hours during which a clerk is available are posted on the court's website. **YES**
3. The judge is available to conduct court business as needed. **YES**
4. The judge performs all duties required and exercises ultimate responsibility for the administration of justice as an independent branch of government. **YES**
5. All court hearings are conducted in a designated courtroom, by remote transmission, or in another location authorized by the Presiding Judge. **YES**
6. Minimum furnishings in the courtroom include:
 - a. Desk and chair for the judge **YES**
 - b. A six-inch riser **YES**
 - c. Desk and chair for the court clerk **YES**
 - d. Chairs for witnesses **YES**
 - e. Separate tables and appropriate chairs for plaintiffs and defendants **YES**
 - f. A new Utah State flag that will be on display no later than March 9, 2024 **YES**
 - g. A United States flag **YES**
 - h. A separate area and chairs for at least four jurors **YES**
 - i. A separate area with appropriate seating for the public **YES**
 - j. An appropriate room for jury deliberations **YES**
 - k. An appropriate area or room for victims and witnesses which is separate from the public **YES**
 - l. A judicial robe **YES**

- m. A gavel YES
- p. Necessary forms and supplies YES
- q. Office space for the judge YES
- r. Office space for the court clerk YES
- s. Secure filing cabinets YES
- t. Appropriate office supplies YES
- u. A cash register or secured cash box for each clerk performing cashiering duties
YES
- v. At least one computer with word processing software and internet access YES
- w. Access to a scanner and copy machine YES

7. The court shall provide interpreters as required by Rule 3-306.04 of the Code of Judicial Administration. YES

8. Does the applicant have a law enforcement department? YES

9. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant:

City contracts with All Pro Security for court security

- 10. A court security plan has been submitted for approval as required by Rule 3-414 of the Code of Judicial Administration. YES
- 11. The court electronically reports to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. YES
- 12. Clerks' education hours shall be reported to the Administrative Office of the Courts on an annual basis. YES
- 13. The appointment of the clerk(s) assigned to serve the court are subject to the judge's approval, who may participate in the interview and personnel evaluation process for the clerk(s) at his or her discretion. YES
- 14. Court staff are current with all certification requirements required by the Board of Justice Court Judges from the month after starting with the court through September 30, 2023.
YES

15. Any interlocal agreement relating to court operations shall be submitted to the Administrative Office of the Court with the city's application for recertification. N/A
16. The court accepts credit and debit cards through a system that integrates with CORIS. YES
17. The court has access to UCJIS. YES
18. An audio recording system that complies with the description below maintains a digital recording of all court proceedings. YES

For Class I and Class II justice courts, the system must:

- Be a stand-alone unit that records and audibly plays back the recording;
- Index, back-up and archive the recording and enable the record to be retrieved;
- Have at least four recording channels;
- Have a one-step "on" and "off" recording function;
- Have conference monitoring of recorded audio;
- Have external record archiving from the unit with local access; and
- Be capable of being integrated with the court's public address system.

For Class III and Class IV justice courts, the system must, at a minimum:

- Be a stand-alone unit that records and audibly plays back the recording;
- Index, back up and archive the recording and enable the record to be retrieved; and
- Have at least two recording channels.

19. If the court is a Class I court:
 - a. Judge is employed on a full-time basis YES
 - b. Dedicated courtroom which meets the master plan guidelines adopted by the Judicial Council YES
 - c. Court has a jury deliberation room YES
 - d. Judge's chambers, clerk's office, and courtroom are in the same building YES
 - e. Judge has his or her own private chambers YES
 - f. Clerk's office is separate from any other entity YES
 - g. Court is open during normal business hours YES

20. If the court is a Class II court:

- a. Court is open (check one)
 - 201-300 average monthly filings: at least 4 hours/day
 - 301-400 average monthly filings: at least 5 hours/day
 - 401-500 average monthly filings: at least 6 hours/day
- b. Trial calendar is set at least weekly
- c. Courtroom configuration is permanent
- d. Courtroom, judge's chambers, and clerk's office are within the same building
- e. Judge has his or her own private chambers

21. If the court is a Class III court:

- a. Trial calendar is set at least twice per month
- b. Court is opened (check one):
 - 61-150 average monthly filings: at least 2 hours/day
 - 151-200 average monthly filings: at least 3 hours/day

22. If the court is a Class IV court:

- a. Trial calendar is set at least monthly
- b. Court is open at least 1 hour per day

23. **If you have responded with a "no" to any item in Section II above, you must request a waiver or extension below and justify that request.** If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the requested extension period. (To receive a waiver or extension of any requirement, the information requested in this section must be provided. Remember that statutory requirements cannot be waived or extended).

I am familiar with the minimum operational standards for this court, and except as noted above, those standards are currently met or exceeded. During the current term of the court, I have met with the appropriate governing body of the city to review the budget of the court, review compliance with the minimum requirements and operational standards, and discuss other items of common concern.

DATED this 12th day of November, 2023.

Reed Shakin
Justice Court Judge

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this 12th day of November, 2023.