

ORDINANCE NO. O-2023-0026

AN ORDINANCE OF THE OREM CITY COUNCIL UPDATING AND AMENDING SECTION 2-27-4 (ORDER OF SUCCESSION FOR CITY MANAGER); SECTION 2-5-5 (POWERS AND DUTIES OF CITY MANAGER); AND SECTION 2-3-3 through 2-3-7 (ELECTION CODE).

WHEREAS, the City of Orem candidates for Municipal Elections must meet specific qualifications; and

WHEREAS, the City of Orem candidates for Municipal Elections are required to file campaign finance disclosures, as outlined by state law; and

WHEREAS, it is in the best interest of the public to know the financial supporters of municipal candidates; and

WHEREAS, the proposed amendment will bring the City of Orem in line with Utah State election requirements; and

WHEREAS, the City of Orem has provided, by ordinance, an order of succession for the City Manager due to unavailability; and

WHEREAS, the City Council believe it is in the best interest of the City and necessary to protect and preserve the welfare and safety of residents in general to clarify the circumstances where the Order of Succession for the City Manager would apply; and

WHEREAS, the City Council further believes it is in the best interest of the City to clarify the numerical majority to appoint an acting municipal manager due to absence or temporary incapacity; and

WHEREAS, the City Council finds the proposed enactment to be in the best interest of the City and necessary to protect and preserve the welfare and safety of residents in general; and

WHEREAS, the matter having been submitted and the City Council having fully considered the request as it relates to the health, safety, and general welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OREM, UTAH, AS FOLLOWS:

1. The City Council hereby amends Section 2-27-4 (Order of Succession for City Manager); Section 2-5-5 (Powers and Duties of City Manager); Section 2-3-3 through 2-3-7 (Election Code) as shown in Exhibit "A" which is attached hereto and incorporated herein by reference.
2. If any part of this ordinance shall be declared invalid, such decision shall not affect the validity of the remainder of this ordinance.
3. All other ordinances, policies, and resolutions in conflict herewith are hereby repealed.
4. This ordinance shall take effect immediately upon passage and publication.

PASSED and APPROVED this 22 day of August, 2023.


David A. Young, Mayor

ATTEST:


Teresa McKittrick, City Recorder

COUNCILMEMBER	YES	NO	ABSTAIN
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David A. Young	☒	☐	☐
Jeff Lambson	☒	☐	☐
Debby Lauret	☒	☐	☐
Tom Macdonald	☒	☐	☐
LaNae Millett	☒	☐	☐
Terry Peterson	☒	☐	☐
David Spencer	☒	☐	☐

EXHIBIT "A"

2-27-4. Order of Succession for City Manager.

If the City Manager is unavailable due to absence, incapacity, resignation, dismissal or other cause, the individuals listed below may, in the order named, act as the temporary interim successor to the City Manager and exercise the powers and duties of the City Manager:

- A. Assistant City Manager
- B. City Attorney
- C. Director of Development Services
- ~~D. Chief of Police~~
- ~~E. Director of Finance~~
- ~~F. Director of Recreation~~
- ~~G. Director of Public Works~~
- G. Chief of Police
- H. Fire Chief
- I. Director of Library

If any of the individuals above decline to exercise the powers and duties of the City Manager, the next person in the order of succession may exercise said powers and duties.

2-5-5. Powers and Duties of City Manager.

The City Manager shall have the power, and it shall be his or her duty to:

- A. Faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the City are observed;
- B. Carry out the policies and programs established by the City Council;
- C. Organize and direct the management of the executive affairs of the City in a manner consistent with the Optional Forms of Municipal Government Act and with City ordinances;
- D. Appoint a budget officer for the purpose of complying with the requirements of the uniform municipal fiscal procedures act;
- E. Appoint, with the advice and consent of the City Council, a qualified person to each of the offices of recorder, treasurer, engineer, and attorney; create any other offices as may be deemed necessary for the good government of the City; and regulate and prescribe the powers and duties of all other officers of the City, except as provided by law or by ordinance;
- F. Examine and inspect the books, records and official papers of any office, department, agency, board, or commission of the City, and make investigations and require reports from personnel;
- G. Appoint, subject to the provisions of the Optional Forms of Municipal Government Act and the Municipal Administrative Code of the City of Orem, heads of municipal offices, departments, and agencies; and with the advice and consent of the City Council, suspend or remove them.
- H. Establish standards, qualifications, criteria, and procedures to govern the appointments, by heads of offices, departments, and agencies or by other authorized officers, of divisional officers, assistants, deputies, and employees within their respective organizational units, subject to any applicable provisions of the merit system and Municipal Administrative Code;
- I. Submit to the City Council plans and programs relating to the development and needs of the City, and annual and special reports concerning the financial, administrative and operational

activities of City offices, departments, agencies, boards, and commissions, together with his or her evaluation and recommendations relating to them;

J. Attend all meetings of the City Council and take part in its discussions and deliberations, but without the right to vote;

K. Appoint, with approval by a two-thirds majority vote of the full membership of the City Council, an acting municipal manager to serve in his or her absence or temporary incapacity to perform the powers and duties of the City Manager; and

L. Discharge any other duties specified by statute or imposed by the City Council.

2-27-4. Order of Succession for City Manager.

If the City Manager is unavailable due to absence, incapacity, resignation, dismissal or other cause, the individuals listed below may, in the order named, act as the temporary interim successor to the City Manager and exercise the powers and duties of the City Manager:

- A. Assistant City Manager
- B. City Attorney
- C. Director of Development Services
- ~~D. Chief of Police~~
- ~~E~~D. Director of Finance
- ~~F~~E. Director of Recreation
- ~~G~~F. Director of Public Works
- G. Chief of Police
- H. Fire Chief
- I. Director of Library

If any of the individuals above decline to exercise the powers and duties of the City Manager, the next person in the order of succession may exercise said powers and duties.

2-5-5. Powers and Duties of City Manager.

The City Manager shall have the power, and it shall be his or her duty to:

- A. Faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the City are observed;
- B. Carry out the policies and programs established by the City Council;
- C. Organize and direct the management of the executive affairs of the City in a manner consistent with the Optional Forms of Municipal Government Act and with City ordinances;
- D. Appoint a budget officer for the purpose of complying with the requirements of the uniform municipal fiscal procedures act;
- E. Appoint, with the advice and consent of the City Council, a qualified person to each of the offices of recorder, treasurer, engineer, and attorney; create any other offices as may be deemed necessary for the good government of the City; and regulate and prescribe the powers and duties of all other officers of the City, except as provided by law or by ordinance;
- F. Examine and inspect the books, records and official papers of any office, department, agency, board, or commission of the City, and make investigations and require reports from personnel;
- G. Appoint, subject to the provisions of the Optional Forms of Municipal Government Act and the Municipal Administrative Code of the City of Orem, heads of municipal offices, departments, and agencies; and with the advice and consent of the City Council, suspend or remove them.
- H. Establish standards, qualifications, criteria, and procedures to govern the appointments, by heads of offices, departments, and agencies or by other authorized officers, of divisional officers, assistants, deputies, and employees within their respective organizational units, subject to any applicable provisions of the merit system and Municipal Administrative Code;
- I. Submit to the City Council plans and programs relating to the development and needs of the City, and annual and special reports concerning the financial, administrative and operational

activities of City offices, departments, agencies, boards, and commissions, together with his or her evaluation and recommendations relating to them;

J. Attend all meetings of the City Council and take part in its discussions and deliberations, but without the right to vote;

K. Appoint, with approval by a two-thirds majority vote of the full membership of the City Council, an acting municipal manager to serve in his or her absence or temporary incapacity to perform the powers and duties of the City Manager; and

L. Discharge any other duties specified by statute or imposed by the City Council.

2-3-3. Candidates for Elective Office.

A. Qualifications. Candidates for any municipal office shall meet the ~~following~~ qualifications set forth in Utah Code Section 20A-9-203, as amended or renumbered.:

- ~~1. Candidates shall be registered voters in the municipality.~~
- ~~2. Candidates shall be U.S. Citizens at the time of filing.~~
- ~~3. Candidates shall be residents of the City of Orem. Residency shall be established by:~~
 - ~~a. Residing in the City of Orem for the twelve (12) consecutive months immediately before the date of the election; or~~
 - ~~b. If the candidate resides in an area recently annexed into the City of Orem, the candidate must have resided in the annexed area or the City for twelve (12) months.~~
- ~~4. Pursuant to Utah Constitution Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in this state until the right to vote or hold elective office is restored as provided by statute.~~
- ~~5. Candidates employed by the City shall terminate their City employment before being sworn in, if elected.~~

B. Filing for Elective Office and Filing Fees.

- 1. Declaration of Candidacy.** Each person seeking to become a candidate for a municipal office shall pay a fee at the time of filing their Declaration of Candidacy in person with the City Recorder as follows:
 - a. For each person seeking to become a candidate for Mayor, the filing fee shall be one hundred fifty dollars (\$150.00); and
 - b. For each person seeking to become a candidate for Council Member the filing fee shall be seventy-five dollars (\$75.00).
 - c. Filing of Candidacy and Fees shall be filed with the City Recorder's Office during office hours and not later than 5:00 p.m., on the dates determined by Utah State Code of any odd-numbered year.
- 2. Nominating Petition.** Any resident of a municipality may nominate a candidate for a municipal office by filing a Nomination Petition and paying the filing fee with the City Recorder during office hours, but not later than 5:00 p.m. on the dates determined by Utah State Code of any odd-numbered year.
- 3. Write-In Candidate.** Any person wishing to become a valid write-in candidate shall file a Declaration of Candidacy and pay the filing fee with the City Recorder's Office not later than 5:00 p.m. on the dates as determined by Utah State Code.

2-3-4. Campaign Finance Disclosure. Candidates for elected municipal office shall comply with the requirements of Utah Code Section 10-3-208, as amended or renumbered.

A. Purpose and intent. ~~The purpose of this section is to comply with Section 10-3-208 of the Utah Code Annotated and to establish campaign financial disclosure requirements for candidates for elective office in the City of Orem.~~

B. Definitions.

- ~~1. Contribution means the receiving of money and nonmonetary contributions such as in-kind contributions and contributions of tangible things for a political purpose.~~
- ~~2. Expenditure means the spending or paying of money or nonmonetary items such as tangible things and in-kind payments for a political purpose made during the campaign period.~~

3. Municipal primary election means the election held in municipalities on the second Tuesday after the first Monday in the August before the Municipal general election.
4. Municipal general election means the election held in municipalities on the Tuesday after the first Monday in November of each odd-numbered year.

C. Reporting.

1. The purpose of this section is to comply with Section 10-3-208 of the Utah Code Annotated and to establish campaign financial disclosure requirements for candidates for elective office in the City of Orem.
2. The City Recorder shall, at the time the candidate for municipal office files a declaration of candidacy and again fourteen (14) days before each municipal primary and municipal general election, notify the candidate in writing of:
 - a. the provisions of this ordinance governing the disclosure of campaign contributions and expenditures;
 - b. the dates when the candidate's campaign finance statement is required to be filed; and
 - c. the penalties that apply for failure to file a timely campaign statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
3. A report is considered filed if it is received in the City Recorder's office no later than 5 p.m. on the date that it is due;
4. Each candidate for elected municipal office shall file a signed campaign financial statement with the City Recorder containing itemized and total campaign contributions and expenditures as required by Utah State Code.
 - a. Candidates in the Municipal Primary Election. Candidates in the municipal primary election shall file a first campaign financial statement seven (7) days before the municipal primary election.
 - b. Candidates Eliminated at the Municipal Primary Election. Candidates who are eliminated at the municipal primary election shall file a campaign financial statement within the thirty (30) days after the municipal primary election.
 - c. Candidates in the Municipal General Election. Candidates in the municipal general election shall file the following campaign financial statements:
 - i. A second campaign financial statement shall be filed seven (7) days before the municipal general election.
 - ii. A third campaign financial statement shall be filed within the thirty (30) days following the municipal general election.
 - iii. If the candidate receives contributions or makes expenditures after the date the candidate files the third campaign financial statement, the candidate shall file an additional campaign financial statement(s) within thirty (30) days of receiving the contribution or making the expenditure.
5. Contents of Statement. The campaign financial statement must include information as required by Utah State Code.

AD. Classification. The signed campaign financial statement received by the City Recorder pursuant to this section shall be classified as a public record except as provided for in Utah Code § 63G-2-305(52).

BE. Penalty.

1. Any person who fails to comply with this Section is guilty of an infraction and upon conviction thereof shall be punished by a fine of not more than seven hundred fifty dollars (\$750.00). Each and every failure to file the required campaign financial statement shall constitute a separate offense.
2. In addition to the penalty imposed in E(1), if a candidate fails to file a campaign finance statement before a municipal primary or general election by the deadlines specified above, the candidate's name shall be removed from the ballot pursuant to State law.

2-3-5. Term of Office.

- A. The term of office for the Mayor and each Councilmember shall be four (4) years.
- B. Councilmembers shall serve staggered terms, with three Councilmembers up for election every two (2) years.
- C. The Mayor shall be elected every four (4) years, beginning with the 1981 municipal election.
- D. Each term shall continue until a successor is chosen and qualified, except in the case of the elected official's death, resignation, removal or disqualification from holding office.

2-3-6. Automatic Vacancy.

An elected official's office automatically becomes vacant if, at any time during that official's term of office, he or she establishes residence outside of the City, or lives outside of City boundaries for a continuous period of more than 60 days.

2-3-7. Vacancy in Office of Mayor or Councilmember.

- A. ~~If there is a~~ A vacancy in the office of Mayor or City Councilmember shall be filled in accordance with the provisions of Utah Code Section 20A-1-510, as amended or renumbered. ; the remaining members of the City Council shall appoint a registered voter in the City to fill the unexpired term of the office vacated, except as otherwise provided in subparagraph C of this section. Before acting to fill the vacancy, the municipal legislative body shall:
 1. give public notice of the vacancy at least two (2) weeks before the municipal legislative body meets to fill the vacancy; and
 2. identify, in the notice:
 - a. the date, time, and place of the meeting where the vacancy will be filled; and
 - b. the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.
- B. ~~If, for any reason, the Council does not fill the vacancy within 30 days after the vacancy occurs, the Council shall vote upon the names that have been submitted. The two persons having the highest number of votes of the Council shall appear before the Council and the Council shall vote again. If neither candidate receives a majority vote of the Council at that time, the vacancy shall be filled by lot in the presence of the Council.~~
- C. ~~A vacancy in the office of Mayor or Councilmember is filled by an interim appointment, followed by an election to fill a two-year term, if:~~
 - ~~1. The vacancy occurs, or a letter of resignation is received by the City Council, at least fourteen (14) days before the deadline for filing for election in an odd-numbered year; and~~
 - ~~2. Two (2) years of the vacated term will remain after the first Monday of January following the next municipal election.~~

~~D. In appointing an interim replacement, the City Council shall comply with the notice requirements of this section.~~

~~E.~~ A member of the Council may not participate in any part of the process established in this section to fill a vacancy in the office of Mayor if that member is being considered for appointment to fill the vacancy.

2-3-8. Powers and Duties of Mayor.

A. The Mayor shall have the following powers and duties:

1. To preside at all meetings of the Council and to serve as chair of the Council.
2. To have a vote in all Council proceedings.
3. To execute bonds, notes, contracts and written obligations as required on behalf of the City.
4. To be chief ceremonial officer of the City.
5. To represent the City in all its external relationships.
6. To make appointments to council advisory boards and commissions, as provided by City ordinances.

B. In addition to the powers and duties set forth in paragraph A, the Mayor shall have all of the powers, duties, and privileges of other City Councilmembers.

C. The powers and duties of the Mayor shall be limited to those set forth in this section and applicable State law.

2-3-9. Mayor Pro Tempore.

A. The City Council shall elect one of its members to act as the Mayor pro tempore during the Mayor's absence or disability. The election of a Mayor pro tempore shall be entered in the minutes of a City Council meeting. If the Mayor and the Mayor pro tempore are both absent from a particular meeting, the Council may elect a Mayor pro tempore to serve at that particular meeting only.

B. The Mayor pro tempore shall serve for six (6) months or until a successor Mayor pro tempore is elected by the Council.

C. Any member of the City Council appointed to act as Mayor pro tempore shall still have only one vote on each issue presented to the City Council.

D. The Mayor may request any member of the City Council to represent the City at public or promotional functions outside of City Council meetings.

E. If no member of the City Council is able to represent the Mayor at public or promotional functions outside of City Council meetings, the City Manager or his designated staff member may do so.

2-3-10. Functions of City Council.

The City Council shall pass ordinances and resolutions, make policy directives, appropriate funds, review city administration, specifically, the performance of the City Manager, and perform all duties that may be required of it by law.

2-3-11. Voting by City Council.

A. The City Council shall not take any action unless a quorum of members is present.

B. A quorum shall consist of any four (4) members of the City Council (including the Mayor).

C. Unless otherwise prescribed by law, the minimum number of yes votes required to pass any ordinance or resolution, or to take any City Council action, shall be a majority of the members of the quorum, but shall never be less than four (4).

D. All seven (7) members of the City Council (the Mayor plus the six (6) Councilmembers) shall have an equal vote on all matters coming before the City Council. The Mayor shall not have the power to veto actions of the City Council.

E. Any ordinance, resolution or motion of the City Council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the Council, even though such majority vote is less than that required.

F. A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the City. A roll call vote shall also be taken when requested by any City Councilmember. For the purposes of this section, "roll call vote" shall mean any vote for which the specific "yes" or "no" vote of each member present is voiced at the meeting and recorded in the minutes.

G. A majority of the remaining members of the City Council, regardless of number, may vote to fill any vacancy in the City Council.

H. The City Council may adopt additional rules and regulations governing voting procedures and meeting procedures that are not contrary to this Chapter or State law.

