

Note that this title is intended to replace the content of the [Chapter 2 - Boards and Commissions](#) of the current Leamington Code.

TITLE 3: ADMINISTRATION

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3.1 GENERAL ADMINISTRATIVE POLICIES

3.1.1 POLICY FOR APPROVAL OF MINUTES.

The following shall be the policy and procedure for the approval of minutes for the town.

(A) Written minutes shall be taken for all public meetings of any public body of the town. The minutes of all public meetings of any public body of the town shall be recorded and taken down by the meeting clerk during the course of any public meeting of the public body.

(B) Within 14 working days from the end of the meeting, the meeting clerk shall prepare proposed minutes for the meeting and give a copy of the proposed minutes to each member of the public body for his or her review and comments.

(C) Once the proposed minutes have been given to the members of the public body, the meeting clerk shall immediately make available to the public the proposed written minutes, which shall be a clearly identified as “awaiting formal approval” or “unapproved” or with some other appropriate notice that the proposed minutes are subject to change until formally approved and they shall become a public document available to any member of the public who requests to read or copy the proposed minutes.

(D) (1) The public body shall consider the proposed minutes for approval at the first meeting of the public body that immediately follows the meeting clerk giving the proposed minutes to the members of the public body.

(2) The members of the public body shall either approve the proposed written minutes as presented; or vote to correct and amend the proposed written minutes and then approve the corrected and amended written minutes at that meeting.

(E) If the public body fail to consider the proposed minutes, or does not take any action to approve the proposed minutes at the first public meeting held by the public body immediately following the public body's receipt of the proposed minutes from the meeting clerk, the proposed minutes shall be deemed to have been approved by the public body and will stand as proposed.

(F) Once the proposed minutes have either been approved by the public body, or have been deemed to have been approved by the inaction of the public body, they shall become the official record of the proceedings of the public body and shall be signed by the clerk of the meeting and shall be retained in the official records of town and shall be a public document available for the inspection and copying by members of the public as appropriate under state law.

(Ord. _____, Prior Code § _____)

3.2 ELECTION PROCEDURE

3.2.1 ADOPTION OF STATE CODE.

All elections of town officers and other elections conducted within the town shall be in accordance with the state's Election Code, as set out in UCA Title 20A.

(Ord. _____, Prior Code § _____)

3.2.2 CAMPAIGN FINANCE DISCLOSURE.

(A) General. All candidates for elective municipal office shall comply with the campaign finance disclosure requirements set forth in this section.

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

CANDIDATE. Any person who files a declaration of candidacy for an elective office of the town; or is nominated by a committee, party or petition; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view of bringing about such person's nomination or election to such office; or causes on his or her behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.

CONTRIBUTION. Monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

(C) Filing of disclosure reports. Each candidate for elective office shall file with the Town Clerk/Recorder dated and signed financial reports which comply with this section. Forms for such reports shall be made available to candidates by the town.

(D) Time of filing. The financial reports required by this section, listing the candidate's itemized and total campaign contributions and expenditures, shall be filed at least once seven days before the municipal general election and at least once 30 days following the municipal general election. A candidate who is eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(E) Contents of financial reports. The financial reports required by this section shall include contributions of \$50 or less received by the candidate that may be reported as an anonymous contribution (see UCA § 10-3-208(4)).

(F) Penalty for non-compliance. Any candidate who fails to comply with the provisions of this section is guilty of an infraction.

(Ord. _____, Prior Code § _____)

3.3 MAYOR AND TOWN COUNCIL

3.3.1 ELIGIBILITY AND RESIDENCY REQUIREMENTS.

(A) Declaration of candidacy. A person filing a declaration of candidacy for a town office shall:

(1) Have been a resident of the town for at least one year immediately before the date of the election; and

(2) Meet the other requirements of UCA § 20A-9-203.

(B) Annexed areas. A person living in an area annexed to the town meets the residency requirement of this section if that person resided within the area annexed to the town for at least one year before the date of the election.

(C) Registered voter. Any person elected to town office shall be a registered voter in the town.

(D) Continuous absence from town. If an elected town officer is absent from the town any time during his or her term of office for a continuous period of more than 60 days without the consent of the Town Council, the town office is automatically vacant.

(Ord. _____, Prior Code § _____)

3.3.2 MEMBERSHIP; TERMS.

(A) Composition. The governing body shall be a Council of five persons, one of whom shall be the Mayor and the remaining four shall be Council members.

(B) Election; terms. The election and terms of office of the officers shall be as follows.

(1) The offices of Mayor and two Council members shall be filled in municipal elections held in the same year. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

(2) The offices of the other two Council members shall be filled in a municipal election that is offset two years from the election of the Mayor and the two Council members. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

(3) The offices shall be filled in at-large elections which shall be held at the time and the manner provided for electing municipal officers.

(C) Vacancy in office. Mayor or Town Council vacancies shall be filled as provided in UCA § 20A-1-510.

(Ord. _____, Prior Code § _____)

3.3.3 TOWN COUNCIL STANDARDS AND RULES OF ORDER.

These standards and rules of order in this subchapter are designed and adopted for the purpose of providing guidelines for the members of the Town Council in the performance of their duties and conducting their meetings. The Town Council shall be governed by the provisions of state law, town ordinances, and these rules. These rules shall not provide an independent basis or cause of action for invalidating, or in any way altering, a final decision of the Council unless otherwise provided by town ordinance or state law. In the event of a conflict between the provisions herein and town ordinance or state law, the stricter or more specific provision shall apply. COUNCIL MEMBER or COUNCIL as used herein shall mean any member of the Town Council, including the Mayor.

(Ord. _____, Prior Code § _____)

3.3.4 ROLE OF COUNCIL AND OTHER OFFICERS.

(A) General roles and responsibilities.

(1) Town Council members are elected to serve as the governing representatives of the community. The Council is comprised of five members, consisting of a Mayor and four Council members.

(2) The Town Council is an administrative and legislative body that is given authority by the state to create local law, set policy, appropriate funds and review municipal administration (UCA § 10-3b-401). The Council also currently provides oversight of all water sewer requirements, decisions, properties, activities and responsibilities.

(3) Most administrative powers, authority and duties are vested in the Mayor. Council members can, by resolution, be given additional powers and responsibilities that are not prohibited by specific statute. Council members may be appointed or assigned by the Mayor to administer specific administrative positions over one or more departments of the town. Such appointments are done with the advice and consent of the majority of the Council.

(B) Oath of office. The oath of office for newly elected Council members is administered by the Town Clerk/Recorder or others authorized by state law, during a Town Council meeting held at 12:00 p.m. on the first Monday of January following an election or as soon thereafter as is practical, per UCA §10-3-201.

(C) Mayor.

(1) The Mayor is the chief executive officer to whom all employees of the municipality shall report. The Mayor is to keep the peace and enforce the laws of the town and ensures that all laws, ordinances and resolutions are faithfully executed and observed. The Mayor, or a duly appointed representative, performs all duties prescribed by law, resolution or ordinance. The Mayor examines and inspects the books, papers, records or documents of the town or of any officer, employee or agent of the town. The Mayor reviews all expenditures of the town and approves expenditures that are above the purchase level of department managers, Council members, and other employees and staff. The Mayor reports to the Council the condition of the town and recommends for consideration any measures deemed to be in the best interest of the town. The Mayor appoints, with the advice and consent of the Council, persons to fill municipal offices or vacancies on commissions or committees of the municipality, in addition to the hiring and firing of employees.

(2) The Mayor is a full voting member of the Town Council. The Mayor is the chair of the Town Council and sets the agenda for each regular meeting of the Council. The Mayor presides at all meetings of the Council.

(3) In conducting meetings of the municipality, the Mayor or in the Mayor's absence, the Mayor Pro Tem, shall:

- (a) Preside at all meetings of the Council and provide general direction for the meetings;
- (b) Call the Council to order and proceed with the order of business;
- (c) Announce the business before the Council in the order in which it is to be acted upon;

(d) Receive and submit in the proper manner all motions and propositions presented by the members of the Council;

(e) Put to vote all questions that are properly moved or that duly arise in the course of proceedings and to announce the results of the vote;

(f) Inform the Council on any point of order or practice (may call upon legal counsel for advice);

(g) Authenticate by signature all acts, orders, and proceedings of the Council;

(h) Maintain order and dignity at meetings of the Council;

(i) Move the agenda along and reduce redundancy;

(j) Recognize speakers and Council members prior to receiving comments and presentation of evidence; and

(k) The Mayor has the right to change the order of the agenda at his/her discretion.

(D) Mayor Pro Tem. The Mayor Pro Tem, during the temporary absence of the Mayor, shall have and perform all the duties and functions of the Mayor. The Town Council shall annually appoint one Council member as Mayor Pro Tem. In the absence of both the Mayor and the appointed Mayor Pro Tem at any meeting, the Town Council may elect another member as Mayor Pro Tem for the duration of that meeting; provided there is a quorum available to conduct such meeting.

(E) Town Council members. Council members have the unique task of balancing the needs and desires of residents and the town as a municipal entity. As part of the Council's decision-making process, efforts are made to gather pertinent information and to involve all stakeholders. Each Council member has the opportunity to request information and to publicly express his or her own individual ideas. Members of the Council strive to maintain a strong working relationship with the Mayor and other Council members and to coordinate often while addressing joint and pressing matters. The Council also provides oversight, reviews administrative actions and conducts investigations as necessary.

(F) Meeting attendance. Every member of the Council shall attend the sessions of the Council unless duly excused or unable to attend because of extenuating circumstances. Any member desiring to be excused shall notify the Town Clerk/Recorder. The Town Clerk/Recorder shall call the same to the attention of the Mayor prior to the meeting. By law, the Council may compel a Council member to attend a meeting of the Town Council.

(G) Appointed officers and assignment of department managers.

(1) On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the Council, should appoint a qualified person to each of the offices of Town Clerk/Recorder and Treasurer, as required by state law.

(2) The Mayor also may, with the advice and consent of the Council, appoint and fill vacancies in all offices provided for by law or ordinance, including appointment of Council members to act as managers for various municipal departments.

(3) Current Council assignments are to serve as managers for: Water Department, Town Hall, parks and recreation, streets and sidewalks, cemetery, and the website. The Town Clerk/Recorder shall maintain a current list of Council member assignments.

(H) Town Clerk/Recorder. Among other statutory duties, the Town Clerk/Recorder shall serve as the secretary of the Council. The Town Clerk/Recorder shall have the following duties:

- (1) To give notice of all Town Council meetings;
- (2) To keep and record accurate minutes of the proceedings of the Town Council;
- (3) To keep and maintain a permanent record of all vital documents and papers pertaining to the work of the Council;
- (4) To sign the meeting minutes after the minutes have been approved by the Town Council; and
- (5) To perform such other duties as may be required.

(I) Town Commissions, Boards, Committees and other appointed offices.

(1) The Mayor, with the advice and consent of the Town Council, appoints members of various commissions, boards and committees which serve in advisory capacities to the Town Council. The following are current active boards: Planning and Zoning Committee, Board of Adjustments, Leamorado Days Committee, and Cemetery Sexton. The Town Clerk/Recorder shall maintain a current list of the members of all boards, committees, and other appointed offices and the dates of their appointments.

(2) Members of each appointed commission, board or committee shall conduct themselves in accordance with the code of conduct as outlined herein.

(Ord. , Prior Code §)

3.3.5 CODE OF CONDUCT.

The code of conduct for members of the Town Council and of the town's boards, committees and commissions is intended to ensure public confidence in the integrity of local government and its effective, open, and fair operation. To this end, the following standards are established, and detailed information is found in the most currently adopted document, "Leamington Town Rules of Order and Procedure".

(A) Act in the public interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the town and not for any private or personal interest and they will strive for fair and equal treatment to all persons, claims and transactions coming before the Town Council, boards, committees and commissions.

(B) Comply with the law. Members shall comply with the laws of the nation, the state and the town in the performance of their public duties. These laws include, but are not limited to: the United States and Utah Constitutions; the municipal code; laws pertaining to conflicts of interest, election campaigns,

financial disclosures, employer responsibilities, and open processes of government; and town policies and procedures.

(C) Conduct of members. The professional and personal conduct of members shall strive to be above reproach and avoid even the appearance of impropriety. Members shall refrain from rudeness, disrespectful comments, insults, name-calling, abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council, boards, committees and commissions, the staff or public.

(D) Respect for process. Members shall perform their duties in accordance with the processes and rules of order as established by the Town Council, board, committees and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Town Council by staff and employees.

(E) Conduct of public meetings. Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings. Everyone should feel safe in expressing their opinions, views, and concerns. Public outbursts, such as clapping, shouting, and booing during meetings are discouraged.

(F) Conflict of interest. In order to ensure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence governmental decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest. Members shall disclose conflicts with investments, interest in real property, sources of income, and gifts without being required to disclose the value of said conflicts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

(G) Policy role of members. Members shall respect and adhere to the Town Council structure as adopted by ordinance. In this structure, the Town Council determines the policies of the town with the advice, information and analysis provided by the public, boards, committees, commissions, legal counsel (if requested), and town staff.

(H) Independence of boards, committees and commissions. Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, members of Council should refrain from using their position to unduly influence the deliberations or outcomes of board, committee, commission, and staff deliberation proceedings.

(I) Positive work place environment. Members shall support the maintenance of a positive and constructive work place environment for town employees and for citizens and businesses dealing with the town. Members shall recognize their special role in dealing with town employees and in no way create the perception of inappropriate direction to staff.

(J) Compliance and enforcement.

(1) The code of conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

(2) The code of conduct expresses standards for ethical conduct expected of members of the Town Council, boards, committees, and commissions. Members themselves have the primary responsibility to ensure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The Council, the chairs and members of boards, committees, and commissions and the Mayor, have the responsibility to intervene when actions of members appearing to be in violation of the code of conduct are witnessed or brought to their attention. The Town Council by majority vote may also impose sanctions on members whose conduct does not comply with the town's ethical standards. Sanctions may include:

- (a) Official verbal reprimand in an open meeting;
- (b) Formal public letter of censure by the Mayor, chair, or majority of the Council or body;
- (c) Loss of committee assignment(s);
- (d) In accordance with UCA §§ 10-3-607 or 52-4-301, or any member of the Council acting in violation of this code of conduct, town code, or town policy and procedures may be removed from meetings; or
- (e) Other courses of action as they are made available by state statute and legal means and agreed upon by a majority of the Town Council.

(Ord. _____, Prior Code § _____)

3.3.6 MEETINGS.

All meetings shall be conducted and noticed in conformance with the Utah Open and Public Meetings Act.

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

CLOSED MEETING. A meeting that is properly closed in accordance with the Utah Open and Public Meetings Act that is part of a regular meeting, special meeting, or emergency meeting.

EMERGENCY MEETING. A meeting of an urgent or emergency nature that meets the requirements of the Utah Open and Public Meetings Act.

REGULAR MEETING. A meeting listed on the Town Council's annual meeting schedule that meets the requirements of the Utah Open and Public Meetings Act.

SPECIAL MEETING. A meeting to consider matters of a non-emergency or non-urgent nature that is not listed on the Town Council's annual meeting schedule and that meets the requirements of the Utah Open and Public Meetings Act.

QUORUM. Any three members of the Council, including the Mayor.

(B) Types of meetings.

(1) Regular meetings.

(a) The Council shall hold regular meetings at least once each month. The Council shall adopt a regular meeting schedule on an annual basis. Regular meetings may include work sessions and/or policy sessions.

(b) The Town Council holds regular meetings in the Council room at the town hall, located at 61 West Main, on the second Wednesday of each month at 7:00 p.m.

(c) The Council may elect to meet at alternate locations, dates and times. Any regular meeting may be canceled or rescheduled by a majority vote of the Council. Public notice shall be given by the Clerk/Recorder of such change in accordance with state law.

(2) Special meetings.

(a) The Mayor or two Council members may order the convening of a special meeting of the Council. Each order shall be entered in the minutes of the Council and provide at least three hours' notice to each Council member of the meeting. The Town Clerk/Recorder shall serve notice of the special meeting on each Council member who did not sign the order by delivering the notice personally, by telephone conversation or voicemail, or by leaving it at the Council member's residence.

(b) The special meeting shall otherwise comply with the noticing requirements of the Utah Open and Public Meetings Act. Any action taken by the Council may not be reconsidered or rescinded at any special meeting unless the number of members of the Council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

(3) Emergency meetings. An emergency meeting to consider matters of an emergency or urgent nature may be held if unforeseen circumstances make it necessary to do so. In such an event, in accordance with the Utah Open and Public Meetings Act, the Council must give the best notice practicable of the time and place of the emergency meeting and the topics to be considered at the emergency meeting. An emergency meeting may not be held unless an attempt has been made to notify all of the Council members and a majority of the Council members, including the Mayor, approves the meeting.

(4) Closed meetings. Closed meetings may be held for the purposes and by following the procedures listed in UCA §§ 52-4-101 through 52-4-305. In accordance with this section, the closed meeting may be held upon a vote by two-thirds of the Council members present, including the Mayor, so long as a quorum is present. After the conclusion of the closed meeting, no vote is required to resume to a public (open)

session. In such a case, the Mayor or Mayor Pro Tem shall announce the end of the closed meeting and the resumption of the public session.

(5) Public hearings.

(a) Public hearings are generally part of a regular meeting and shall consist of those items the Council is legally required to hold a hearing for or for items the Council wishes to receive public input on.

(b) The Mayor shall automatically schedule matters that state law or town ordinance requires a public hearing. Upon the request of three or more Council members, or two Council members and the Mayor, the Mayor may schedule a public hearing on any other topic.

(c) Public hearings will be held after providing proper notice as required by state law or town ordinance.

(d) When a public hearing is held, a member of the Town Council having knowledge about the issue will first present information on the issue and answer questions. The Mayor will then call upon the applicant to make a short presentation about the item on the Council agenda.

(e) Following comments from the applicant, the Mayor will declare the public hearing as opened or convened. No motion is needed to open or convene the public hearing.

(f) At that point, all parties interested in addressing the issue are invited to speak before any discussion is held by the Council or before any motion is made. The Mayor may provide a time limit for those addressing the Council during a public hearing and may limit redundant, irrelevant, or inappropriate comments from the public. The applicant should not speak during the public hearing. Each individual who speaks during the public hearing shall state his or her name before proceeding.

(g) Upon conclusion of the public comment, the Mayor will announce the closure of the public hearing. No motion is needed to close the public hearing.

(h) The Council may vote to continue a public hearing to a future specified date, time, and location if there is insufficient time to take all public comment.

(i) After the public hearing is closed, the Council may proceed with discussion on the matter at hand. As part of the discussion, the Council shall offer the applicant an opportunity to address comments made by the public and to answer questions asked by the Council. When discussion by the Council is finished, a motion may then occur for appropriate action.

(C) Notice of meeting schedule.

(1) Posting in general circulation. The Town Clerk/Recorder shall publish in at least one newspaper in general circulation within the city, a statement of dates, times and places of the regular Town Council meetings for the calendar year. Posting shall occur no later than the day preceding the day of the first regular meeting of the calendar year.

(2) Alternate postings. The Town Clerk/Recorder shall post in at least three locations, set forth by state code, the dates, times and place of each regular Town Council meeting for the calendar year at least

one week prior to the first regular meeting of the calendar year. The Recorder shall check at reasonable intervals to ensure that these postings remain accurate and accessible to the public. The Town Council shall approve the selection of these locations, which may be physical locations, such as a public bulletin board or on an electronic medium, such as a town-sponsored web page or social media platform.

(D) Agenda. A written agenda for each meeting shall be prepared by the Town Clerk/Recorder, under the direction of the Mayor. In the event any member of the Council desires to add an item or items to any prepared agenda, consent must be obtained from another Council member or the Mayor. The Mayor may also add an item to the agenda. Any member of the general public may place an item on the agenda upon the approval of the Mayor or two Council members. The Mayor and Council members shall not unreasonably deny a request.

(1) Deadlines for filing or removal of agenda items. All items submitted for presentation or removal from the agenda must be requested no later than 5:00 p.m. of the Monday prior to the scheduled meeting. As an alternative, members of the general public may raise an item with the Town Council during a regular meeting's public comment section of the agenda.

(2) Removal of agenda items. The Mayor has the authority to remove agenda items unless a Council member has placed it on the agenda. The Mayor must then have approval of that Council member to remove the agenda item. Any member of the general public may request the Mayor to remove any item they submitted from the agenda at any time.

(3) Agenda preparation. Upon receiving all requests, the Clerk/Recorder shall add or delete the requested items to the prepared agenda.

(4) Posting of agenda.

(a) The regular Town Council meeting agenda shall be posted by the Clerk/Recorder no later than 24 hours prior to the meeting. Changes to the agenda may also be posted up until 24 hours prior to the meeting, as provided by law. The Clerk/Recorder shall distribute electronic copies of the agenda to the town website, the state public notice website, and/or other media outlet that has requested it. The Recorder shall post a copy of the agenda in the local post office. The Town Council shall approve the selection of these locations, which may be physical locations, such as a public bulletin board or on an electronic medium, such as a town-sponsored web page or social media platform.

(b) The Clerk/Recorder shall distribute printed or electronic copies of the agenda to members of the Town Council and to any person that is to appear on the agenda no later than 8:00 p.m. of the Tuesday prior to the meeting.

(5) Mayor's right to alter agenda. The Mayor has the right to change the order of the agenda at his or her discretion.

(E) Quorum. Three members of the Council (including the Mayor, or including the Mayor Pro Tem if the Mayor is not present) shall constitute a quorum thereof for the transaction of all business except where otherwise required.

(F) Content/order of business. Town Council meetings will generally be conducted in the following order, unless otherwise specified:

- (1) Invocation (at the Mayor's discretion);
 - (2) Roll Call;
 - (3) Approval of minutes of previous meetings/hearings;
 - (4) Consideration of specific items, or business (ordinances, resolutions, training, and the like);
 - (5) Budget and financial items;
 - (6) Departmental reports;
 - (7) Miscellaneous items; and
 - (8) Public Comments;
 - (9) Adjournment;
- (G) Invocation.

(1) At the discretion of the Mayor, each Town Council meeting will begin with an invocation, not to exceed three minutes, consisting of a prayer, other supplication, moment of silence, inspirational thought or reading, and the like.

(2) The invocation, if given, should promote thoughtful attention to public duty and high moral and ethical standards. It should promote peace, unity and tolerance in the community. It should not demean or degrade any person or group, disparage others, or be crude, vulgar or offensive to the public sense of decency.

(H) General meeting conduct.

(1) Discussions in the meetings are to be limited to agenda items and issues reasonably related thereto.

(2) Comments or presentations by the public that are redundant, irrelevant, or inappropriate may be limited by the Mayor.

(3) In order to ensure that the meetings proceed timely and orderly, the Mayor may impose a time limit on those desiring to address the Council.

(4) At the discretion of the Mayor, groups desiring to address the Council may be asked to select a spokesperson. A group shall be defined as an assembly of three or more people in attendance with similar viewpoints on a given issue. The names of each member of the group shall be provided to the Town Clerk/Recorder, as well as the name of the spokesperson of the group. This information must be provided prior to the spokesperson being allowed to address the Council.

(5) Any person who exceeds a time limit, shows disrespect to any person attending or participating in the meeting, is disruptive, violates any law, or discusses irrelevant, redundant, or inappropriate issues may be removed at the direction of the Mayor.

(I) Decorum.

(1) Council members shall not engage in personal attacks and shall respect the viewpoints of staff, the public, and other Council members.

(2) Council members shall restrict comments to issues before the body.

(3) Council members shall avoid engaging in private discourse or other actions that may distract the attention of the Council or the audience from the business at hand or that might interfere with a person's right to be heard after recognition by the Mayor.

(4) Council members shall demonstrate courtesy and not disrupt meetings.

(5) Violations of decorum or conduct of Council members shall be addressed by the Mayor, who may declare a Council member out of order. The Mayor or a Council member may also be declared out of order on vote of two or more members of the Town Council.

(J) Motions.

(1) Making motions. Any Council member, except for the Mayor, may make or second a motion. Motions should state findings for denial or approval within the motion. Council members may adopt by reference any findings contained in staff reports if the Council members have reviewed and agree with those findings and so state on the record. All motions shall be repeated if directed by the Mayor.

(2) Second required. Each motion of the Council must be seconded by a member of the Council. The Mayor is not allowed to second a motion. A motion that is not seconded is considered failed.

(3) Withdrawing a motion. After a motion is made and seconded, it shall be deemed in the possession of the Council, but it may be withdrawn at any time before decision or amendment by the consent of the author and Council member who seconded the motion.

(4) Motion to table. A motion to table an agenda item for further study should be accompanied by specific reasons for continuing the matter and, whenever feasible, a specific date to rehear the matter. The item should be placed on the next available Council agenda if feasible.

(5) Amending motions. When a motion is pending before the Council, any Council member may suggest an amendment without a second at any time prior to the Mayor calling for a vote on the motion. The amendment must be accepted by the author and the member that seconded the motion in order to amend the stated motion.

(6) Substitute motions. A substitute motion, which shall replace the original motion, may be made prior to a vote on the original motion. The substitute motion must be accepted by the author and the member that seconded the motion in order to substitute the stated motion. If not accepted, the member making the substitute motion shall wait until after a vote on the original motion to make a new motion.

(7) Reconsidering a motion. To recall a previous motion for further evaluation or action, a motion for reconsideration may be made by a Council member who voted with the majority. The motion to reconsider must pass with a minimum of three votes. If it is determined that the motion should stand as previously approved, no formal vote is necessary. If the former motion is to be amended or made void, the motion shall be put to a formal vote of the Council. Motions to reconsider a previous motion should normally take place during the same meeting the motion was made.

(8) Recesses. No motion is necessary to break for a short recess. In such a case, the Mayor shall announce that the Council is taking a break and announce the time the Council will reconvene. In addition, one or more Council members may take a short recess so long as a quorum remains in attendance.

(9) Adjourn. No motion is necessary to adjourn a meeting after conclusion of all business on the agenda. In such a case, the Mayor shall announce the adjournment of the meeting. Otherwise, if the business on the agenda has not been completed, a motion, stating the reason for adjournment, and a second are required to adjourn.

(K) Voting.

(1) Number of votes required. Unless otherwise provided by state law, town ordinances, or herein, the minimum number of votes required to make a determination on any item presented to the Council or to transact any business before the Council shall be three votes so long as a quorum is present.

(2) Changing a vote. No member shall be permitted to change his or her vote after the decision is announced by the Mayor, unless a motion for reconsideration or a substitute motion is made and approved as provided herein.

(3) Abstention. Every Council member has the right to abstain from voting.

(4) Conflict of interest; disqualification. If required to be disqualified from voting by the Municipal Officers' and Employees' Ethics Act because of a conflict of interest or other reason, a disqualified Council member shall not participate in the discussion or vote of that particular item.

(5) Roll call required. A roll call vote shall be required for the following types of actions:

- (a) Ordinances;
- (b) Resolutions;
- (c) Actions that would create a liability for the city;
- (d) Action on an item when a Council member specifically requests a roll call; and
- (e) Action on an item for which a Council member is participating electronically.

(L) Meeting minutes. The Clerk/Recorder is responsible for creating, posting, storing and releasing all minutes of Council meetings. Draft minutes from Council meetings are reviewed by the Mayor and Council members and considered for approval during the next regular Council meeting. Approved

minutes are posted to the state public notice website and to a town-sponsored social media page or town website. Hard copies may be obtained from the Clerk/Recorder.

(Ord. _____, Prior Code § _____)

3.3.7 COUNCIL OFFICE.

(A) Council salaries and compensation. Council members receive a minimal annual salary, paid monthly, to account for their time, service and conduct of their official elected duties. Council member salaries are reviewed and adjusted periodically as part of the town compensation ordinance.

(B) Reimbursements. In addition to the annual salary, Council members may be compensated for expenses directly related to the conduct of their official duties and would include participation in seminars, meetings, or training. These are handled on a case-by-case basis and generally require prior approval by the Mayor or the Council. This includes such expenses as per diem, mileage, lodging, meals, registration fees, subscriptions, memberships, and the like. These expenses may be paid in advance, if needed, or disbursed following approval of a submitted expense statement.

(C) Labor by Council members.

(1) It is not necessary for Council members to perform the routine physical labors of each department over which they are assigned. Doing so creates a liability to the town if the Council member is not qualified to perform such labor. It also discourages community members from serving on the Town Council if the perception exists that such labors are part of the duties of office.

(2) Nevertheless, it has been common practice for certain Council members to perform some of these physical duties, where they have been qualified to do so. This practice is permitted, but only when the Council member is duly qualified to perform the labor.

(3) The Mayor and Council member over each department is responsible to determine what the qualifications are for specific jobs and whether labor to be performed by a Council member or by others meets that criteria. Wherever possible, the labor should be performed by a qualified town employee or contractor.

(4) Compensation, if requested, for labor performed by Council members shall be according to the schedule for general labor, as defined in the compensation ordinance.

(Ord. _____, Prior Code § _____)

3.3.8 MISCELLANEOUS PROVISIONS.

(A) Additional guidelines. In addition to these policies and procedures, the Council may invoke additional guidelines as necessary to address issues as they arise so long as they are consistent with the nature and intent herein.

(B) Review and amendments. These standards and rules of order shall be reviewed periodically to ensure that provisions herein are current with state law. These rules may be updated or amended by resolution at any regular meeting of the Town Council.

(Ord. _____, Prior Code § _____)

3.4 ORDINANCES AND RESOLUTIONS

3.4.1 POWER EXERCISED BY ORDINANCE.

The Town Council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he or she reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he or she enforced an ordinance on advice of legal counsel.

(Ord. _____, Prior Code § _____)

3.4.2 PENALTY FOR VIOLATION.

Unless otherwise specifically authorized by statute, the Town Council may provide a penalty for the violation of any town ordinance by a fine not to exceed the maximum Class B misdemeanor fine under UCA § 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment. The Town Council may prescribe a minimum penalty for the violation of any town ordinance and may impose a civil penalty for the unauthorized use of town property, including, but not limited to, the use of parks, streets and other public grounds or equipment. Rules of civil procedure shall be substantially followed.

(Ord. _____, Prior Code § _____)

3.4.3 FORM OF ORDINANCE.

Any ordinance passed by the Town Council shall contain and be in substantially the following order and form:

- (A) A number;
- (B) A title which indicates the nature of the subject matter of the ordinance;
- (C) A preamble which states the need or reason for the ordinance;
- (D) An ordaining clause which states “Be it ordained by the Town of Leamington:”;
- (E) The body or subject of the ordinance;
- (F) When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
- (G) A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
- (H) A line for the signature of the Mayor or Mayor pro tempore to sign the ordinance; and
- (I) A place for the Town Clerk/Recorder to attest the ordinance and affix the seal of the town.

(Ord. _____, Prior Code § _____)

3.4.4 REQUIREMENTS AS TO FORM; EFFECTIVE DATE.

(A) Ordinances passed or enacted by the Town Council shall be signed by the Mayor, or if he or she is absent, by the Mayor pro tempore, or by a quorum of the Town Council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of UCA § 10-3-704(1) through (4).

(B) Ordinances shall become effective 20 days after publication or posting or 30 days after final passage by the Town Council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

(C) Ordinances which do not have an effective date shall become effective 20 days after publication or posting, or 30 days after final passage by the Town Council, whichever is sooner.

(Ord. _____, Prior Code § _____)

3.4.5 PUBLICATION AND POSTING OF ORDINANCES.

All ordinances, except those enacted pursuant to UCA §§ 10-3-706 through 10-3-710, before taking effect shall be deposited in the office of the Town Clerk/Recorder and a short summary of the ordinance published at least once in a newspaper published within the town, or if there is no newspaper published therein, then by posting complete copies in the town post office. Any ordinance, code or book, other than the state code, relating to building or safety standards, town functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least three copies have been filed for use and examination by the public in the office of the Town Clerk/Recorder prior to the adoption of the ordinance by the Town Council. Any state law relating to building or safety standards, town functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. The ordinance adopting the code or book shall be published in the manner provided in UCA §§ 10-3-709 and 10-3-710.

((Ord. _____, Prior Code § _____))

3.4.6 RECORDING; NUMBERING; CERTIFICATION OF PASSAGE.

(A) The Town Clerk/Recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the Town Council. The Town Clerk/Recorder shall give each ordinance a number, if the Town Council has not already so done. Immediately following each ordinance, or codification of ordinances, the Town Clerk/Recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage and publication or posting of the ordinance or codification.

(B) The Town Clerk, insofar as possible, shall assign all ordinances of a general nature a sequential number, which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.

(C) The Town Clerk/Recorder shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedication, bond issues and tax levies, in a separate book of "special ordinances" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the four digits of the year the ordinance is adopted, followed by a dash which is followed by a number indicating the order in which such special ordinance was adopted during the year.

(D) Failure to comply with this section shall not affect or render invalid any ordinance of the town.

((Ord. _____, Prior Code § _____))

3.4.7 RESOLUTIONS.

(A) Purpose.

(1) Unless otherwise required by law, the Town Council may exercise all administrative powers by resolution, including, but not limited to:

- (a) Establishing water and sewer rates;
- (b) Charges for garbage collection and fees charged for town services;
- (c) Establishing personnel policies and guidelines; and
- (d) Regulating the use and operation of the town property.

(2) Punishment, fines or forfeitures may not be imposed by resolution.

(B) Form. Any resolution passed by the Town Council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

(C) Publication; effective date. Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the Town Council may determine, but resolutions may not become effective more than three months from the date of passage.

(Ord. _____, Prior Code § _____)

3.5 OFFICERS AND EMPLOYEES

3.5.1 CREATING OFFICES; FILLING VACANCIES.

(A) Offices created by Council. The Town Council may create any office deemed necessary for the government of the town and provide for filling vacancies in elective and appointive offices.

(B) Mayor to appoint and fill vacancies. The Mayor, with the advice and consent of the Town Council, may appoint and fill vacancies in all offices provided for by law or ordinance.

(C) Continuation in office. All appointed officers shall continue in office until their successors are appointed and qualified.

(Ord. _____, Prior Code § _____)

3.5.2 TOWN CLERK/RECORDER AND TOWN TREASURER.

On or before the first Monday in February following a town election, the Mayor, with the advice and consent of the Town Council, shall appoint a qualified person to each of the offices of Town Clerk/Recorder and Town Treasurer.

(Ord. _____, Prior Code § _____)

3.5.3 BONDS OF OFFICERS.

(A) Approval of bonds. The bonds of the Council members shall be approved by the Mayor and the bond of the Mayor shall be approved by the Town Council at the first meeting of the Town Council in January following a town election.

(B) Premium paid by town. The premium charged by a corporate surety for any bond required by the town shall be paid by the town.

(C) Additional bonds; filing. The Town Council may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers, except as otherwise provided by law, shall be filed with the Town Clerk/Recorder; except that, the bond of the Town Clerk/Recorder shall be filed with the Town Treasurer.

(D) Bond amounts. Before taking the oath of office and entering upon the duties of their respective office, the following named town officials shall each give a bond with good and sufficient securities, payable to the town, conditioned for the faithful performance of the duties of their office and the payment of all moneys received by such officers according to law and the ordinances of the town, in the following amounts:

(1) Mayor: \$288,000;

(2) Council member: \$10,000;

(3) Town Treasurer: \$288,000; and

(4) Town Clerk/Recorder: \$10,000.

(E) Treasurer's bond. The Town Treasurer and Mayor's bond shall be superseded by any rule, regulation or directive of the state's Money Management Council when such rule, regulation or directive is binding on the town.

(F) Blanket bond. The bond required in this section may be a blanket bond.

(Ord. _____, Prior Code § _____)

3.5.4 OATH OF OFFICE.

(A) Constitutional oath of office. All officers, whether elected or appointed, before entering upon the duties of their respective offices shall take, subscribe and file the constitutional oath of office. The form of oath shall be as provided in the Utah Constitution Art. IV, § 10.

(B) Filing.

(1) The oath of office required under this section shall be administered by any judge, notary public or by the Town Clerk/Recorder.

(2) (a) Elected officials shall take their oath of office at 12:00 p.m. on the first Monday in January following their election or as soon thereafter as is practical.

(b) Appointed officers shall take their oath at any time before entering on their duties.

(c) All oaths of office shall be filed with the Town Clerk/Recorder.

(C) Acts of officials not voided. No official act of any town officer shall be invalid for the reason that he or she failed to take the oath of office.

(Ord. _____, Prior Code § _____)

3.5.5 COMPENSATION.

(A) The salaries, benefits and conditions of employment for the officers and employees of the town shall be as established by ordinance of the Town Council.

(B) The compensation schedule is on file in the town office.

(Ord. _____, Prior Code § _____)

3.5.5 RETIREMENT SYSTEM.

The Mayor is authorized to undertake all of the necessary actions to enroll the town in the benefit programs of the Public Employees' Retirement Systems offered by Utah Retirement Systems, including the retirement coverage and death benefit coverage for qualified employees under the laws and regulations of the Utah Retirement Systems.

(Ord. _____, Prior Code § _____)

3.5.7 PLANNING AND ZONING ADMINISTRATIVE OFFICIAL.

The Mayor of the town is appointed as the administrative official of planning and zoning.

(Ord. _____, Prior Code § _____)

3.6 CONFLICTS OF INTEREST

3.6.1 PURPOSE.

The purpose of this subchapter is to establish standards of conduct for elected officials, appointed officers, employees and volunteers serving on town boards, commissions, committees, agencies, councils and foundations and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

(Ord. _____, Prior Code § _____)

3.6.2 STATUTORY REFERENCES.

Statutory provisions governing conflicts of interest are outlined in UCA § 10-3-1301 through 10-3-1312.

(Ord. _____, Prior Code § _____)

3.6.3 DEFINITIONS.

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

APPOINTED OFFICER.

(1) Any person appointed to any statutory office or position or any other person appointed to any position of employment with the town. APPOINTED OFFICERS include, but are not limited to, persons serving on special, regular, part-time or full-time committees, commissions, agencies, boards, councils, foundations created by the Town Council, whether or not such persons are compensated for their services.

(2) The use of the word “officer” in this subchapter is not intended to make appointed persons or employees “officers” of the town according to any meaning that term may have elsewhere.

ASSIST. To act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is

of help, aid, advice or assistance to such person or business entity and with the intent to so assist such person or business entity.

BUSINESS ENTITY. A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation or other organization or entity used in carrying on a business.

COMPENSATION. Anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity by anyone other than the town for or in consideration of personal services, materials, property or any other thing whatsoever.

ELECTED OFFICER. Any person elected or appointed to the office of Mayor or Council member.

IMPROPER DISCLOSURE. Disclosure of private, confidential or protected information to any person who does not have both the right and the need to receive the information.

MUNICIPAL EMPLOYEE. A person who is not an elected or appointed officer who is employed on a full-time, part-time or voluntary basis by the town.

PRIVATE, CONFIDENTIAL OR PROTECTED INFORMATION. Information classified as private or protected under UCA Title 63G, Ch. 2, Government Records Access and Management Act, or other applicable provision of law.

SUBSTANTIAL INTEREST. The ownership, either legally or equitably, by an individual, his or her spouse, or his or her minor children, or an entity he or she controls, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

VOLUNTEER.

- (1) A person serving on town boards, commissions, committees, agencies, councils and foundations.
- (2) VOLUNTEERS shall be considered “appointed officers” under this subchapter.

(Ord. _____, Prior Code § _____)

3.6.4 USE OF OFFICE FOR PERSONAL BENEFIT.

No elected or appointed officer shall:

(A) Disclose unauthorized information. Improperly disclose private, confidential or protected information acquired by reason of his or her official position or use such information to secure special privileges or exemptions for himself or herself or others;

(B) Misuse of position. Use or attempt to use his or her official position to secure special privileges for himself or herself or others; or

(C) Gifts or loans; exceptions. Knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself or herself or another if the gift or loan tends to influence him or her in the discharge of his or her official duties, but this division (C) does not apply to:

- (1) An occasional non-pecuniary gift having a value of less than \$50;
- (2) An award publicly presented;
- (3) Any bona fide loan made in the ordinary course of business; or
- (4) Political campaign contributions if the contribution is actually used in a political campaign.

(Ord. _____, Prior Code § _____)

3.6.5 COMPENSATION FOR ASSISTANCE; DISCLOSURE STATEMENT.

(A) Compensation.

(1) No elected or appointed officer or municipal employee may receive or agree to receive compensation for assisting any person or business entity in any transaction involving the town in which he or she is an officer unless he or she files with the Mayor a sworn statement giving the information required by this section and discloses the same in open meeting to the members of the body of which he or she is a member immediately prior to the discussion the information required by division (C) below.

(2) No municipal employee may receive or agree to receive compensation for assisting any person or business entity in any transaction involving the town unless he or she discloses the information required by division (C) below to his or her immediate supervisor and any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.

(B) Disclosure statement.

(1) The statement required to be filed by this section shall be filed ten days prior to the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted, or ten days prior to the receipt of compensation by the business entity, whichever is earlier.

(2) The statement is public information and shall be available for examination by the public.

(C) Disclosure information. The statement and disclosure shall contain the following information:

- (1) The name and address of the officer or employee;
- (2) The name and address of the person or business entity being or to be assisted or in which the appointed or elected official has a substantial interest; and
- (3) A brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

(Ord. _____, Prior Code § _____)

3.6.6 INTEREST IN BUSINESS.

(A) Interest in business subject to town regulation.

(1) Required. Every appointed or elected officer or municipal employee who is an officer, director, agent or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the town, shall disclose the position held and the nature and value of his or her interest upon first becoming appointed, elected or employed by the town and again at any time thereafter if the elected or appointed officer or employee's position in the business entity has changed significantly or if the value of his or her interest in the entity has increased significantly since the last disclosure.

(2) Disclosure statement. The disclosure shall be made in a sworn statement filed with the Mayor. The Mayor shall report the substance of all such disclosure statements to the members of the Town Council or may provide to the members of the Town Council, copies of the disclosure statement within 30 days after the statement is received by him or her.

(3) Exceptions. This section does not apply to instances where the value of the interest does not exceed \$2,000. Life insurance policies and annuities shall not be considered in determining the value of any such interest.

(4) Form. The disclosure statement required by this section may be in substantially the following form:

Disclosure Statement

State of Utah

County of Millard

The undersigned, being first duly sworn, deposes and states:

1. Office. I am (name and office) of Leamington, and my address is _____, Leamington, Utah.

2. Involvement with business entities. Below are listed all business entities which the undersigned is an officer, director, agent, employee or owner of an interest therein.

a. Name of business entity (1):

Position held:

Projected ownership interest ():*

b. Name of business entity (2):

Position held:

Projected ownership interest ():*

c. Name of business entity (3):

Position held:

Projected ownership interest ():*

** Represents estimated ownership interest in a business entity.*

3. Nature of involvement. The following more fully describes the nature of my interest in the above-listed business entities, which are referred to by the same letters as in the previous item.

a.

b.

c.

My commission expires:

The above statements are made as of the _____ day of _____

Subscribed and sworn to before me on this _____ day of _____

Town Clerk / Recorder:

Residing in:

(Ord. _____, Prior Code § _____)

(B) Interest in doing business with the town.

(1) Disclosure required. Every appointed or elected officer or employee who is an officer, director, agent, employee or owner of a substantial interest in any business entity which does or anticipates doing business with the town, shall publicly disclose, to the members of the body of which he or she is a

member, or by which he or she is employed, immediately prior to any discussion by such body, concerning matters relating to such business entity, the nature of his or her interest in that business entity.

(2) Statement entered in minutes. The disclosure statement shall be entered in the minutes of the meeting.

(3) Manner of disclosure. Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in a manner required by division (A) above and §3.6.5 of this chapter.

(Ord. _____, Prior Code § _____)

3.6.7 OTHER CONFLICTS OF INTEREST.

Any personal interest or investment by a municipal employee or by any elected or appointed official of the town which creates a conflict between the employee's or official's personal interests and his or her public duties shall be disclosed in open meeting to the members of the Town Council in the manner required by §§3.6.5 and 3.6.6 of this chapter.

(Ord. _____, Prior Code § _____)

3.6.8 NEPOTISM.

(A) No "elected" or "appointed" officer, as defined in §3.6.3 of this chapter, shall employ, appoint or vote for the appointment of his or her father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law, in or to any position or employment, when the salary, wages, pay or compensation of such appointee is to be paid out of any public funds unless such employment is based on the competitive selection process that is open to the public.

(B) It is unlawful for such appointee to accept or to retain such employment when his initial appointment thereto was made in contravention of the foregoing sentence by a person within the degrees of consanguinity or affinity therein specified having the direct power of employment or appointment to such position, or by a board or group of which such person is a member. Any individual selected by a competitive selection process for an open position with the Town may accept such employment.

(Prior Code, § 1-6A-9) (Ord. 1993-01, passed 4-15-1993) Penalty, see § 32.99

3.6.9 CONFLICTING PRIVATE EMPLOYMENT.

No employee shall engage in, solicit, negotiate for, promise or accept outside employment, nor render any services to anyone other than the town in return for a valuable consideration, when such employment or services create a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his or her discretion in an official capacity. No employee shall serve or be involved with projects, businesses or enterprises which are subject to regulation by or which have transactions with the town.

(Ord. _____, Prior Code § _____)

3.6.10 INVESTMENTS.

(A) Policy. Investments by employees shall be in accordance with this subchapter.

(B) Prohibited investments.

(1) No employee shall invest or hold any legal or equitable interest in any business or enterprise which investment or interest creates a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his or her discretion in an official capacity.

(2) No employee shall invest in or be involved with projects, businesses or enterprises which are subject to regulation by or which have transactions with the town.

(C) Exemptions. The following investments are exempt from the requirements of this section:

- (1) Bank, savings and loan or credit accounts;
- (2) Insurance policies;
- (3) Securities listed on a national stock exchange; and
- (4) Investments in any business or enterprise which does not do business in the town.

(Ord. _____, Prior Code § _____)

3.6.11 APPEARANCE OF EMPLOYEES.

Each employee shall conduct his or her official affairs in such a manner that will give the clear impression that he or she cannot be improperly influenced in the performance of his or her official duties.

(Ord. _____, Prior Code § _____)

3.6.12 EXCEPTIONS.

The provisions of this subchapter shall not apply, among others, to the following employment situations:

- (A) Where the employee or appointee was appointed or employed by the town prior to the time during which said related person assumed said public position therein;
- (B) Where the employee or appointee was or is eligible or qualified to be employed by a department or agency of the town as the result of his or her compliance with civil service laws or regulations and merit system laws or regulations, or as the result of a certification as to his or her qualification and fitness by a department, agency or subdivision of the state or town authorized so to do by law; and
- (C) Where the employee or appointee was or is employed by the employing unit because he or she was or is the only person available, qualified or eligible for the position.

(Ord. _____, Prior Code § _____)

3.6.13 NO-ACTION DETERMINATIONS.

Employees may follow the procedures below to determine if their activities will be in violation of this subchapter.

(A) Request of determination. Prior to undertaking any activity which may violate the provisions of this subchapter, an employee may notify the Mayor of the contemplated activity and request a determination pursuant to this section. Upon receipt of adequate relevant information, and after any investigation deemed necessary or advisable, the Mayor may then determine whether or not the town will take action against the employee if the contemplated activity is undertaken, and advise the employee accordingly. In making this determination, the Mayor shall consider whether the contemplated activity violates any terms of this section, with attention to the following particulars:

- (1) Any use for private gain or advantage of town time, facilities, equipment and supplies, badge, uniform, prestige, office or equipment;
- (2) Receipt by the employee of any money or other consideration for the performance of any act required of him or her as a town employee;
- (3) Performance of an act other than in his capacity as an employee, which act may later be subject, directly or indirectly, to control, inspection, review, audit or enforcement by the agency or department in which he or she is employed; and
- (4) The extent, if any, to which the employee will be acting under color of town authority or subject the town to any potential liability.

(B) Effect. If the Mayor determines that no action will be taken against the employee if he or she undertakes the contemplated activity, then no such action will be taken, unless the contemplated activity

proves to be materially different than represented to the Mayor in making the ruling, or unless material facts were not disclosed to the mayor before the ruling was made.

(C) Records maintained. Complete, written records of the facts and decision of each no-action request shall be maintained and shall be open to the public for review upon reasonable request.

(D) No precedential effect. The determination of one no-action request shall not necessarily affect the determination of future no-action requests.

(E) Town Council review.

(1) Referral by Mayor. The Mayor may refer any no-action request to the Town Council for decision, after gathering and presenting to the Council the relevant facts.

(2) Appeal by employee. An employee may appeal the denial of his no-action request to the Town Council within ten days after notification of the Mayor's decision. The employee shall then have a promptly scheduled opportunity to present his or her request to the Town Council, and the Mayor may also speak in defense of the denial.

(Ord. _____, Prior Code § _____)

3.6.14 INDUCING OFFICER TO VIOLATE.

It is a Class B misdemeanor, subject to penalty as provided in § 10.99 of this code of ordinances, for any person to induce or seek to induce any appointed or elected officer or municipal employee to violate any of the provisions of this subchapter.

(Ord. _____, Prior Code § _____)

3.6.15 COMPLAINTS; PROCEDURE.

If a person is charged with a violation of this subchapter, the complaint shall be filed with the Mayor or Town Clerk/Recorder. The Mayor or Town Clerk/Recorder shall investigate the complaint and shall give the person an opportunity to be heard. A written report of the findings and the recommendation of the Mayor or the Town Clerk/Recorder shall be filed with the Town Council. If the Town Council finds that the person has knowingly and intentionally violated this subchapter, it may dismiss, remove from office, suspend or take such other appropriate actions with respect to the person in accordance with state laws, town ordinances and town personnel policies and procedures. The Town Council may also rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the town.

(Ord. _____, Prior Code § _____)

3.6.16 PENALTY.

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

(B) (1) Separate offense. Each day any such person, father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law, is retained in office by any of said officials shall be regarded as a separate offense.

(2) Penalty. In addition to any penalty contained in any other provision of law, including, but not limited to, UCA § 10-3-1310, any person who knowingly and intentionally violates §§ 32.20 through 32.34 of this chapter shall be guilty of a Class B misdemeanor and subject to penalty as provided in § 10.99 of this code of ordinances.

(Ord. _____, Prior Code § _____)