



# Ogden City

## City Council

November 1, 2016

City Council Chambers

Municipal Building – Third Floor

2549 Washington Boulevard, Ogden, Utah 84401

### 3:30 p.m. Joint Work Session

City Council also acting as the Redevelopment Agency

City Council Work Room

The purpose of the work session includes presentations and discussions regarding:

- Agenda review for City Council and Special Redevelopment Agency meetings;
- Proposed Amendments to the Business Depot Ogden Street Master Plan;
- Proposed 1050 West Street Vacation;
- Proposed Public Safety Employee Appeals Board; and
- Council and Board business.

Any items not fully addressed prior to the City Council meeting, which begins at 6:00 p.m., may be addressed immediately following the Special Redevelopment Agency meeting.

### 6:00 p.m. City Council Meeting

City Council Chambers

1. Roll Call.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Common Consent (*voice vote*):
  - a. **Street Vacation of 1050 West from 200 North to 400 North.** Proposed ordinance 2016-57 vacating a portion of 1050 West from 200 North to 400 North and quit claiming the property within the vacated portion to the abutting property owners. (*Set public hearing for November 15, 2016*)
5. Public Comments. This is an opportunity to address the Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comments will be limited to three minutes per person. Participants are to state their name and address for the record. Comments which cannot be made within these limits should be submitted in writing to the City Council Office ([citycouncil@ogdencity.com](mailto:citycouncil@ogdencity.com)).

The Council encourages civil discourse for everyone who participates in our meetings. Comments pertaining to an agenda item that includes a public hearing or public input should be given during the meeting as that item is discussed.

6. Comments:
  - a. Mayor.
  - b. Council members.
7. Adjournment.

**Special Redevelopment Agency Meeting**  
Council Chambers

1. Roll Call.
2. Public Comments. This is an opportunity to address the Board regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comments will be limited to three minutes per person. Participants are to state their name and address for the record. Comments which cannot be made within these limits should be submitted in writing to the City Council Office ([citycouncil@ogdencity.com](mailto:citycouncil@ogdencity.com)).  
  
The Board encourages civil discourse for everyone who participates in our meetings. Comments pertaining to an agenda item that includes a public hearing or public input should be given during the meeting as that item is discussed.
3. Comments:
  - a. Executive Director.
  - b. Board Members.
4. **Closed Executive Session.** Consideration of adjourning into a Closed Executive Session pursuant to one or more of the provisions of Section 52-4-205(1) of the Open and Public Meetings Law:
  - a. Discussion of the character, professional competence, or physical or mental health of an individual
  - b. Strategy session to discuss collective bargaining
  - c. Strategy session to discuss pending or reasonably imminent litigation
  - d. Strategy session to discuss the purchase, exchange, or lease of real property
  - e. Strategy session to discuss the sale of real property
  - f. Discussion regarding deployment of security personnel, devices, or systems
  - g. Investigative proceedings regarding allegations of criminal misconduct.  
(Adjourn/not adjourn into closed session – roll call vote)
5. Adjournment.

**Continuation of Work Session if Necessary**

Public meetings may be held electronically in accordance with Utah Code Annotated 52-4-207 to allow Council members to participate via teleconference. The anchor location for the meeting shall be on the 3<sup>rd</sup> Floor of the Ogden Municipal Building, 2549 Washington Blvd., Ogden Utah.

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the Management Services Department at 629-8701 (TDD # 629-8949) or by email: [ADACompliance@ci.ogden.ut.us](mailto:ADACompliance@ci.ogden.ut.us) at least 48 hours in advance of the meeting.

**CERTIFICATE OF POSTING**

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and/or agenda was posted in accordance with Utah State Code Annotated 52-4-202(3) on this 28th day of October, 2016 in the following places: 2<sup>nd</sup> floor foyer of the Ogden City Municipal Building; the Utah State Public Notice website, the Ogden City website, and provided to the Standard-Examiner.

TRACY HANSEN, MMC  
OGDEN CITY RECORDER

Visit the City Council Meetings page at: [councilmeetings.ogdencity.com](http://councilmeetings.ogdencity.com)  
Ogden City Council Agenda Information Line – 801-629-8159



# City Council Work Session COUNCIL STAFF REVIEW

## REVIEW OF PROPOSED AMENDMENT TO THE BUSINESS DEPOT OGDEN STREET MASTER PLAN

**PURPOSE OF  
WORK SESSION:** To review the proposed plan amendment

**Planning Commission  
Recommendation** Approval of the amendment (5-0)

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### ***Executive Summary***

Blake Wahlen, manager at BDO, has requested an amendment to the street master plan for Business Depot Ogden. The amendment would remove 1050 West (shown on some documents and labeled with street signs on location as 1070 West) from the plan for future public streets between 200 North and 600 North. Mr. Wahlen has indicated that the amendment and subsequent vacation of the dedicated right-of-way would allow for the development of future buildings in the area and would eliminate conflicts that arise with the maneuvering and loading/unloading of trucks on publicly dedicated streets.

### ***Background***

In 1999, a street master plan was approved for the Business Depot Ogden site. The street master plan established future circulation patterns and showed which roads within BDO should be public roads and which should be internal service roads for the circulation of business and truck traffic. Over the years, there have been minor changes made to the street master plan. Like any master plan, as time passes and as development happens minor changes need to be made to recognize site and development issues.

In looking at a street master plan, it is important to consider the intent of the original plan and to consider how the changes would affect the area. In this case, there are established public collector roads through the area. Public access would not be impacted with the change and the development of 1050 West as a service road would eliminate the conflicts that may arise between public access and the loading and unloading of the large trucks which can block the roads. The intent of the plan was to establish a circulation pattern for the area and that pattern has been established with other roads.

The proposed amendment to the BDO street master plan is part one of a three-part amendment process. The second is the vacation of the



**OGDEN CITY COUNCIL TRANSMITTAL**

**RECEIVED**

**OCT 18 2016**

**OGDEN CITY  
COUNCIL OFFICE**

**DATE:** October 7, 2016  
**TO:** Ogden City Council  
**THRU:** Mark Johnson, CAO  
**FROM:** Tom Christopoulos, CED Director  
**RE:** Consideration to amend BDO Street Master plan by removing 1070 West as a public street.

**STAFF CONTACT:** Greg Montgomery, Planning Manager

**REQUESTED TIMELINE:** November 15, 2016

**RECOMMENDATION:** Approval of revising the BDO Street Master Plan by removing 1070 West as a public street.

**DOCUMENTS:** Ordinance, Planning Staff report.

**DISCUSSION:**

Mr. Wahlen explained the history of the development of the BDO facility. Over time several revisions have been made to the street master plan to accommodate changing needs to the facility. This request is also a result of development opportunities and some limiting factors that exist in the area because of infrastructure. It was explained that even though Ward Drive was eliminated as a street that the 60-inch sewer line still follows the area of the old road. That forces development to maintain clearance from the line.

Staff explained that in looking at amending the street plan the two key factors are the general public circulation and the needs of the individual businesses. Keeping the general public away from the day to day truck loading and unloading facilities is important. This amendment would not impact the general public circulation and it would better define that the area between the buildings where 1070 was planned as more of a day to day service area rather than an access area for the public. Staff felt that the revision maintains the original intent developed with the street plan and would not adversely impact the public or businesses in the area.

**PLANNING COMMISSION ACTION**

The Planning Commission reviewed this item on October 5, 2016. A motion was made based on the findings that the amendment will not impact general public circulation and that the layout of land east of Buildings 15 B and C is consistent with private street patterns rather than public to recommend approval of amending the BDO Street Master Plan by eliminating 1070 West as a public street.

PLANNING COMMISSIONERS VOTE	<u>Yes</u>	<u>No</u>
Graf.....	X	
Herman.....	X	

Holman..... X  
Schade..... X  
Blaisdale.....X

**CONCERNS OF CITIZENS:**

None expressed

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE BDO STREET MASTER PLAN BY REMOVING 1050 WEST BETWEEN 200 NORTH AND 600 NORTH AS A PUBLIC COLLECTOR ROAD; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

WHEREAS, the Ogden City Planning Commission has reviewed a petition to amend the Street Master Plan for Business Depot Ogden; and

WHEREAS, the City Council has determined that it is in the best interests of the City to amend the BDO Street Masterplan to remove 1050 West between 200 North and 600 North as a public collector road.

**NOW, THEREFORE, the Council of Ogden City hereby ordains:**

SECTION 1. Amended Masterplan. The proposed amendment to the BDO Street Masterplan by removing 1050 West between 200 North and 600 North as a public collector road as further shown on Exhibit A, attached hereto and incorporated herein by reference, is hereby approved.

SECTION 2. Effective date. This ordinance shall become effective immediately upon posting after final passage.

PASSED, ADOPTED AND ORDERED POSTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
Tracy Hansen, City Recorder

Transmitted to the Mayor on: \_\_\_\_\_

Mayor's Action:     Approved         Vetoed

\_\_\_\_\_  
Michael P. Caldwell, Mayor

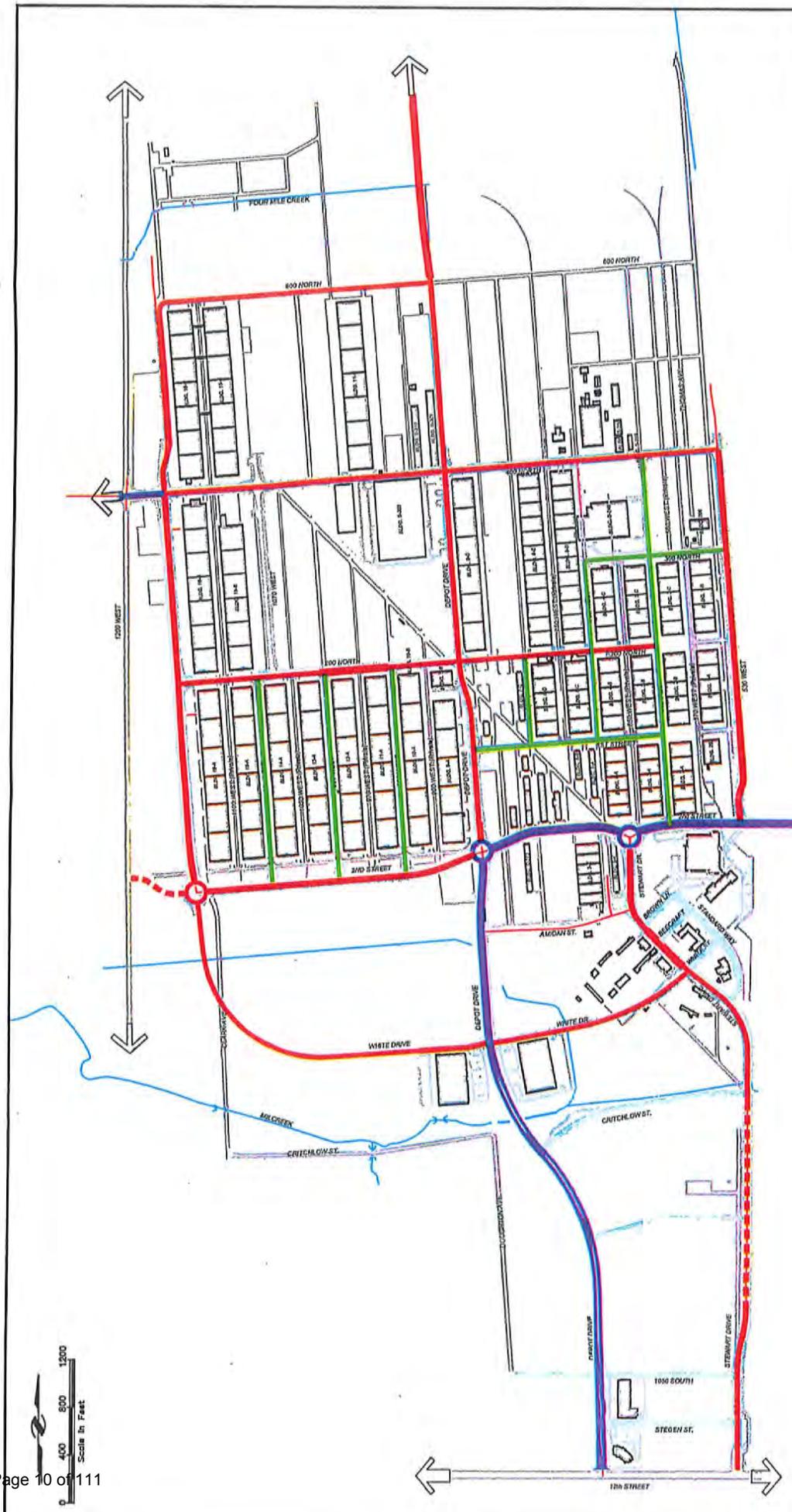
ATTEST:

\_\_\_\_\_





# EXHIBIT A



OGDEN CITY  
BUSINESS DEPOT OGDEN

## STREET MASTER PLAN

**BENINGHAM ENGINEERING**  
 2435 LAKE CITY - (408) 544-2342  
 OGDEN - (408) 249-1462

Sheet No. **1**  
 of **1**

Print Date: 04/23/2024    Proj. # 02002

City of Ogden Planning Department    Doc. Control not to be removed from file.

1512000/UrbanForm/04/23/24/Business Depot Master Plan - Layout

J	Rev	Date	Revised By	Remarks
1	001	10/17/16	PROJECT & SUBMITTED TO LOCAL AGENCY	
2	002	10/16/17	REVISIONS	
3	003	10/25/18	SPRINKLES	
4	004	11/25/18	SPRINKLES	
5	005	06/25/19	SPRINKLES	
6	006	04/27/20	100' & 114' ALLEYS/STREETS	
7	007	05/14/20	REMOVED WILL PARKWAY REDRAWN/OUT	
8	008	10/19/20	REMOVED STREET NAMES	
9	009	06/12/21	REMOVED LAYOUT	

- LEGEND:**
- ARTERIAL ROADS (96' OR 83' ROW)
  - COLLECTOR ROADS (42', 44', 45', 54', OR 66' ROW)
  - LOCAL ROADS (38' ROW)
  - SERVICE ROADS (38' ROW)
  - UNDEDICATED SERVICE ROADS
  - DASHED ROADS DENOTE FUTURE CONSTRUCTION



Report by Greg Montgomery

**Agenda Name: Public Hearing Amendment of the BDO Street Masterplan by removing 1070 (1050) West as a Public Collector Road**

**Petitioner/ Developer:** Blake Wahlen- General Manager Business Depot Ogden  
1150 South Depot Drive, Suite 100  
Ogden, Utah 84404

**Petitioner/ Developer's requested action:** Removal of 1070 West as a public street

Planning Staff's Recommended Action

Approval of revising the BDO Street master plan by removing 1070 West as a public collector road north of 200 North.

Planning Commission's determination for action

1. The proposed amendment will not / *will* impact general public circulation through the BDO facility.
2. The layout of land east Buildings 15 B and C are/ *area not* consistent with patterns for private rather than public street systems.

Past History

December 5, 2007- Amending the road master plan by eliminating local road between 850 South and Critchlow and a collector road 530 West north of 400 North and 600 North east of Depot Drive.

April 3, 2002-Amend road master plan to have perimeter road replace diagonal road that cuts through facility.

July 5, 2000- Approval of a 38-foot road cross section for local road rights of way in BDO.

November 17, 1999- Approval of road master plan for ORBIC (now BDO)

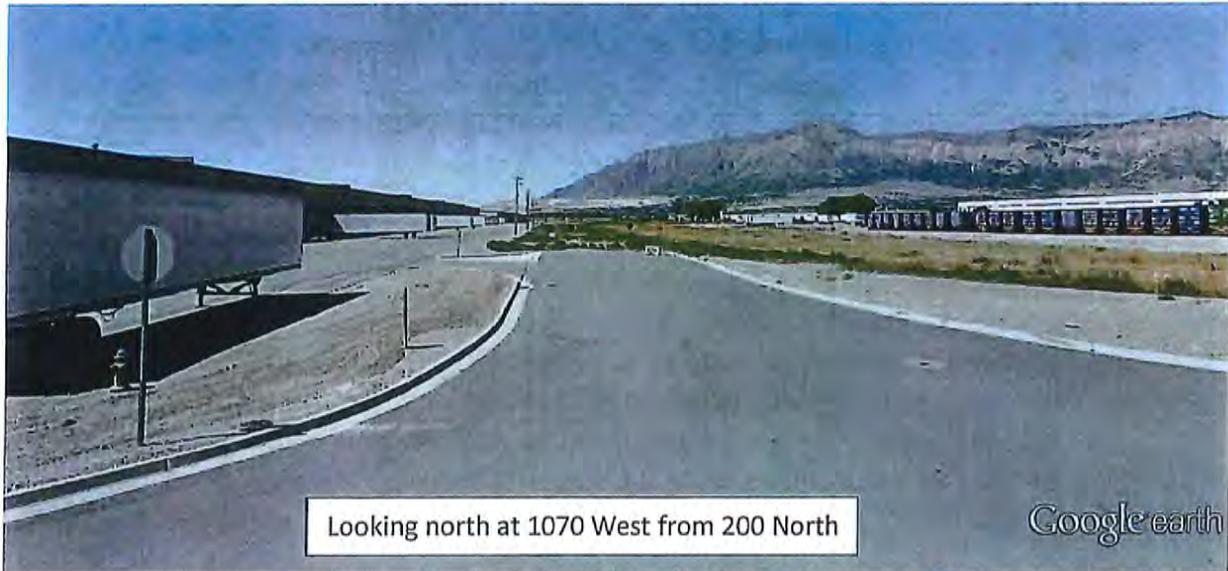
Vicinity Map



Description of request

Planning of the reuse of the closed Defense Depot Ogden was an important process to develop a facility that could meet future development needs. The reuse of the area also opened up a large island that had blocked circulation patterns for the northern half of the city trying to get west to I-15. A reuse plan and street master plan were developed to anticipate the needs of the new private/ public venture now known as Business Depot Ogden (BDO) and also facilitate public movement through this area.

Development continues at BDO. A change to accommodate growth is being requested to the street master plan. The request is to eliminate 1070 West as a public collector road north of 200 North. (The street master plan identifies the road as 1070 West while the dedication plat calls it 1050 West. It is the same street depending on which drawing you are looking at.) The plan development would still have a paved accessway that would function as a private drive to provide direct access to loading docks of existing development on the west and future development on the east.



The existing street plan places every other street between buildings as a private street to meet this function. That pattern is what lead to 1070 West being a designated collector street as there are two rows of buildings to the west with a private drive between them. The area north of 200 North is a large open area that had the original Ward Avenue diagonal cut through the area. This creates a somewhat different development pattern than the existing buildings to the south and east that already exist and follow the present format. This different pattern and trying to redevelop the vacant land, which has utility easements from the old Ward Drive, is aimed at getting the most useable space from the land. This is what leads to this request.

## What Planning Commission reviews

The Commission is required to review amendments to plans for consistency to the general plan and that the revisions will not adversely impact the attainment of the goals and strategies of the plan.

Once the Commission makes a recommendation on the request, the recommendation is forwarded to the City Council for a final action.

## Factors for consideration of action

### 1. Consistency with the general plan

15.C. 1.1 of the DDO District Land Use Plan states that a goal is to, "Create an attractive and functional development at the DDO site which will provide opportunities to expand Ogden's employment and tax base and be a long term asset to our city and the greater Ogden area." This request is to make more functional a vacant portion of land so that it can be developed given the restrictions of utility lines and also the restriction that if the street is public that truck maneuvering can take place only on private land and not on city streets. Since this is a new street and not existing, new development would need to comply with this requirement which pushes buildings closer to the diagonal utility line and makes use of the land less efficient. This would be contrary to the general plan.

### 2. Public Street Needs

Another consideration is the need of these two segments as public streets and how that impacts the overall circulation pattern. There is a general public circulation system and then the business circulation system. This amendment will not alter the general public circulation system which is intended to move people through the area and connect to the east and west with other public streets or go north and south to other public areas such as the fair grounds and 12<sup>th</sup> Street. The truck system within BDO will not be impacted by the revision as they will still be allowed to circulate between buildings and connect to wider public streets that are connected at either end of the private road system. This also makes it possible to keep the public on those streets that are wider and avoid conflicts with truck traffic in tight spaces.

## Attachments

1. Letter of request
2. Existing street master plan
3. Proposed street master plan



BUSINESS DEPOT  
*Ogden*

September 6, 2016

Greg Montgomery  
Ogden City Planner  
2549 Washington Blvd.  
Ogden, Utah 84401

RE: Request for Street Master Plan Amendment

Dear Greg:

In order to accommodate the growth at Business Depot Ogden, we are hereby requesting an amendment to the Street Master Plan. I have attached a copy of the proposed plan for consideration by the Ogden City Planning Commission and City Council.

If you have any questions regarding this request, please let me know.

Sincerely,

Blake Wahlen  
General Manager  
Business Depot Ogden

BW/lb

# Street Master Plan



### LEGEND:

- ARTERIAL ROADS (96' OR 83' ROW)
- COLLECTOR ROADS (42', 44', 46', 54', OR 66' ROW)
- LOCAL ROADS (38' ROW)
- SERVICE ROADS (38' ROW)
- UNDESIGNATED SERVICE ROADS
- - - DASHED ROADS DENOTE FUTURE CONSTRUCTION

Rev.	By	Date	Description
H	BSS	02/25/04	UPDATED
G	BSS	11/25/02	UPDATED
F	BSS	08/28/02	UPDATED
E	BSS	04/30/02	100 & 11A ALTERNATIVES
D	BSS	03/14/02	
C	BSS	07/10/02	REVISED WALL PARKWAY ROUNDABOUT
B	BSS	10/19/01	REVISED STREET NAMES
A	BSS	09/13/01	REVISED LAYOUT

OGDEN CITY  
BUSINESS DEPOT OGDEN

## STREET MASTER PLAN

**BINGHAM ENGINEERING**  
SALT LAKE CITY • (801) 487-3388  
OGDEN • (801) 399-1422

Rev. BSS  
Rev. BSS  
Rev. BSS  
Rev. BSS

1

Sheet # 03506 of 1

Print Date: 04/23/2004 File: P:\03506.dwg Plot Date: 04/23/2004 Plotter: HP DesignJet 500C  
 P:\03506.dwg User: jperkins, Inc. Title: STREET PLAN TO BE REVIEWED IN PART BY THE CITY ENGINEERING DEPARTMENT. Inc. Drawing Plot to the printer in part.





# City Council Work Session COUNCIL STAFF REVIEW

## PUBLIC SAFETY EMPLOYEE APPEALS BOARD

### PURPOSE OF DISCUSSION:

To review and discuss a proposal to replace the Civil Service Commission with a Public Safety Employee Appeals Board.

### *Executive Summary*

The Ogden City Administration is proposing to dissolve the Civil Service Commission and replace this with a Public Safety Employee Appeals Board. The new Board is intended to have the same basic structure and functionally of the Civil Service Commission with the exception of hiring responsibilities.

### *Background*

#### December 19, 1991

Ogden City established its Civil Service Commission. This occurred as part of Ogden’s transition to the Council-Mayor form of government and to meet a requirement in State Law for all cities of the first and second class to establish a Civil Service Commission.

First Class City	Second Class City
Population – 100,000+	Population – between 65,000-100,000

#### February/March 2006

The Utah State Legislature considered removing the Civil Service Commission requirement to allow cities to have the option to use a Civil Service Commission. The Ogden City Council adopted Resolution 2006-5 to oppose this action. The Council expressed a desire to maintain a level playing field for all second class cities and stated that the Council had no intention of dissolving the Ogden City Civil Service Commission. Ultimately, the proposed change to state law was adopted and cities were provided the choice to use a Civil Service Commission.

Utah Code Annotated § 10-3-1003	
a.	A city of the first or second class may establish a civil service commission under this part.
b.	A city that establishes a civil service commission under this part may dissolve the civil service commission.



# City Council Work Session

## COUNCIL STAFF REVIEW

The Civil Service Commission, in accordance with Utah Code Ann. § 10-3-10, serves as the appeal authority for all employees in the Police and Fire departments. The Commission also maintains and approves a list of eligible candidates for hire in the two departments.

The existing requirement for the Civil Service Commission to approve candidate eligibility lists requires that a meeting must be held for this to occur. This lengthens the hiring process and has created some challenges for the city to compete with other hiring agencies for qualified candidates.

### ***Other Communities***

Most Utah cities with Ogden’s form of government use the Civil Service Commission structure established and defined by Utah Law. However, many 1<sup>st</sup> and 2<sup>nd</sup> Class cities have decided to no longer use the state’s civil service commission model.

<b>City</b>	<b>Class</b>	<b>Use of Civil Service Commission (as outlined by Utah Law)</b>
Salt Lake City	1 <sup>st</sup> Class	Yes
West Valley City	1 <sup>st</sup> Class	No – Dissolved in 2014 and replaced with hearing officer for all city employee appeals
Provo City	1 <sup>st</sup> Class	Yes
West Jordan	2 <sup>nd</sup> Class	No - Applications for Police and Fire processed by HR and hiring occurs at dept. level
Sandy	2 <sup>nd</sup> Class	No - Applications for Police and Fire processed by HR and hiring occurs at dept. level
Orem	2 <sup>nd</sup> Class	No - Applications for Police and Fire processed by HR and hiring occurs at dept. level. Use City Appeals Board
<b>Ogden</b>	<b>2<sup>nd</sup> Class</b>	<b>Yes</b>
St. George	2 <sup>nd</sup> Class	No - Applications for Police and Fire processed by HR and hiring occurs at dept. level
Logan	3 <sup>rd</sup> Class	Yes
Murray	3 <sup>rd</sup> Class	Yes

### ***Current Proposal***



# City Council Work Session

## COUNCIL STAFF REVIEW

The Administration is proposing an ordinance to replace the Civil Service Commission with a Public Safety Employee Appeals Board. The Board would become the appeal authority for sworn Police and Fire officials, without having responsibilities related to the hiring process. Hiring would instead be addressed by Administrative Policy and Human Resources in coordination with the departments.

This structural change allows both sworn and non-sworn employees to appeal demotions, terminations and suspensions of two or more days. In contrast, the Civil Service Commission currently doesn't hear appeals for demotions and requires three or more days of suspension for an appeal. Non-sworn public safety employees would also become merit employees, extending protections and providing these employees with the ability to exercise due process in an event of employment suspension, discharge or demotion.

The Civil Service Commission currently has its own established rules and regulations, and changes to these guidelines are approved publically during its meetings. The proposal would have rules for the Public Safety Employee Appeals Board addressed in Administrative Policy, which would allow all city personnel policies to be accessed from one location and available to the public.

The composition of the Public Safety Employee Appeals Board is similar to what has been used with the Civil Service Commission, as defined by state law, with three individuals appointed by the Mayor with the advice and consent of City Council and no more than two members being of the same political party to reduce partisan influence. The term for Board members is proposed to be three years rather than the current six-year term. The Board would continue to meet in a public meeting but would only meet when there is an appeal rather than on a monthly basis. This change would enable all current Civil Service Commission representatives to qualify to serve on the newly proposed Board.

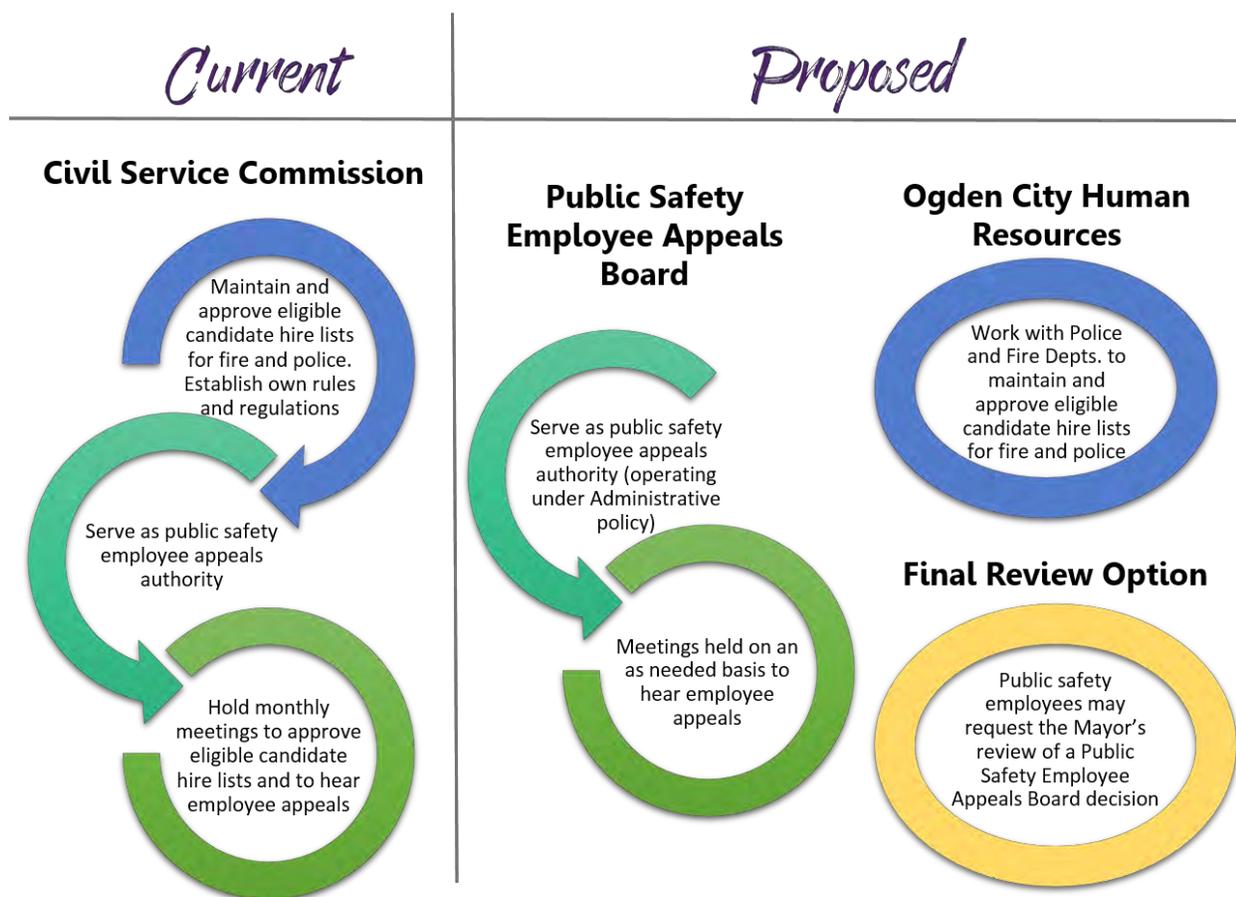
The proposed change also identifies and outlines the appeals process for merit employees. Once all administrative appeal remedies have been exhausted, a merit employee may appeal to the Chief Administrative Officer (CAO) or his/her designee as the hearing officer for employee discharge, suspension or demotion.



# City Council Work Session COUNCIL STAFF REVIEW

However, this does not apply to an employee discharged or transferred to a position with less pay if the discharge or transfer is the result of a layoff, reorganization or other non-disciplinary action.

Merit employees who are dissatisfied with an appeals decision made by the CAO have the option to request the Mayor's review of the decision. Public safety employees also have the option of requesting the Mayor's review of a Public Safety Employee Appeals Board decision. This final review option is parallel to the ability of a merit employee to request the Mayor's review of a CAO decision.



## **Outreach**

Each employee group was invited to provide feedback on this proposal. The Ogden Police Benefit Association (OPBA) provided a response that is included in the attachments. The Professional Fire Fighters of Ogden (IAFF) is currently working to finalize its response, and this will be provided during the next few weeks and prior to the Council's decision on this item.



# City Council Work Session

## COUNCIL STAFF REVIEW

A response has not yet been received from the Utah Alliance of Government Employees (UAGE).

### *Attachments*

1. Administrative Transmittal
2. Proposed Ordinance
3. Letter from OPBA
4. Draft Administrative Personnel Policy Amendments
5. Civil Service Commission Rules and Regulations

### *Questions for Administration*

1. Please describe the current Civil Service Commission hiring process and what the newly proposed hiring process will entail.
2. What is the approximate length of time to hire an employee through the Civil Service Commission process? What is the anticipated timeline with having the Public Safety Appeals Board in place?
3. What are the anticipated impacts for prospective Police Officers and Fire Fighters who are currently undergoing the Civil Service Commission hiring process?
4. How many individuals are currently on the hiring lists for Police and Fire?
5. Are there currently any employee appeals being reviewed by the Civil Service Commission? If so, how would this change impact pending appeals?
6. Please describe the outreach that has occurred with the Police and Fire Departments, employee groups and city employees, and describe feedback received regarding this proposed change.
7. Please describe why the term for Board members is proposed to change from six years to three years. Were other term lengths considered?
8. Please describe the Mayor's involvement in the employee appeals process.
9. How does a transition to the Public Safety Employee Appeals Board impact existing Civil Service Commission representatives?
10. Please describe how the proposed hiring changes would work in a more competitive market and whether a list of applicants would still be maintained as a resource for future hiring opportunities.
11. Please briefly describe the proposed changes to the personnel policy.

---

**Memos Prepared By:**

**Administrative Contact:**  
**Council Staff:**

**Mara Brown, 801-629-8104**  
**Amy Sue Mabey, 801-629-8629**

**SEP 13 2016****OGDEN CITY  
COUNCIL OFFICE****Ogden City Council Transmittal**

Date: September 13, 2016  
To: Ogden City Council  
From: Mark Johnson, CAO  
RE: Adoption of Public Safety Employee Appeals Board

Staff Contact: Mike Ashment, Police Chief  
Mike Mathieu, Fire Chief  
Mara Brown, Deputy City Attorney  
Shawn Choate, Human Resources/Risk Manager

Requested Timeline: As soon as possible  
Recommendation: Adoption of Ordinance  
Documents: Proposed Ordinance

**Background**

Ogden City has a civil service commission whose jurisdiction is authorized by Utah Code Ann. section 10-3-1001 et seq. Ogden Municipal Code section 3-6-1 established the civil service commission and gave it the responsibilities and jurisdiction authorized under Utah law. The two primary responsibilities of the civil service commission are: 1. to serve as the appeal authority for all employees in the police and fire departments; and 2. to approve the lists of eligible candidates for hire in the police and fire departments.

Ogden City's requirement that the civil service commission approve eligibility lists for candidates for hire in the police and fire departments has become an increasing impediment to hiring qualified candidates, exacerbated by competition in the market for the most qualified police and fire employees.

**Proposal**

It is proposed that the civil service commission be dissolved and a public safety employee appeal board be adopted in its place. The public safety employee appeal board will become the appeal authority for sworn officers in the police and fire departments but will not have authority to approve eligibility lists.

The changes bring additional benefits to the overall Ogden City employee structure. For example, non-sworn employees in the police and fire departments will become merit employees. The appeal authority for merit employees will be a hearing officer, designated as the CAO of the city, which has been the process in place for merit employee appeals for many years.

Both sworn and non-sworn employees in the police and fire departments will gain protections as a result of the proposed changes. Both sworn and non-sworn employees will be able to appeal suspensions of more than two days, demotion, or termination. For sworn fire personnel, suspensions of more than 16 hours for a 40-hour work week employee or more than 24 hours for a 56-hour work week employee are eligible for appeal. By contrast, the civil service commission did not have jurisdiction over demotion, and only heard appeals of suspensions of more than three days. As part of the proposed changes, sworn and non-sworn employees of the police and fire departments will be integrated into the personnel policies that already apply to all other city employees.

The public safety employee appeal board will not have jurisdiction over the testing and hiring process; this process will be determined by policy adopted by the Chiefs, with continued oversight by the human resources office.

The composition of the public safety employee appeal board will be identical to the composition of the civil service commission, with three individuals appointed by the Mayor with advice and consent of City Council. As with the civil service commission, no more than two members can be of the same political party. The term of a board member is proposed to be three years rather than the current six year term for a civil service commissioner. The public safety employee appeal board will only meet when there is an appeal, rather than monthly.

### **Fiscal Impact**

No fiscal impact is anticipated by dissolving the civil service commission and adopting a public safety employee appeal board.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF OGDEN CITY, UTAH, AMENDING THE OGDEN MUNICIPAL CODE BY REPEALING AND RESERVING CHAPTER 6 OF TITLE 3; BY AMENDING CHAPTER 7 OF TITLE 3 TO REVISE PROVISIONS RELATIVE TO EMPLOYEE APPEALS; AND BY PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

The Council of Ogden City hereby ordains:

**SECTION 1. Chapter Repealed.** Chapter 6 of Title 3 of the Ogden Municipal

Code is hereby repealed and reserved as follows:

**Repealed and Reserved**

**Chapter 6**

**[CIVIL SERVICE COMMISSION]**

**[3-6-1: [DEFINED:]]**

~~The Classified Civil Service shall consist of all employees of the Police Department and Fire Department, excluding temporary employees as defined in Utah Code Annotated section 10-3-1011, or any successor provisions, and the Chief of Police and the Fire Chief. If the following positions are ever created, deputy chiefs of the Police and Fire Departments and assistant chiefs of the Police Department, they shall be excluded from the classified service.~~

**~~3-6-2: [ESTABLISHED, APPOINTMENT AND TERMS:]~~**

~~There is hereby established a Civil Service Commission, consisting of three (3) members, to be appointed by the Mayor, with the advice and consent of the City Council. Their term of office shall be for six (6) years; provided however, that of the first appointments, one shall serve until June 30, 1994, and another to serve to June 30, 1996, and another member to serve until June 30, 1998. In the month of June 1994, and every second year thereafter, one member shall in like manner be appointed for the term of six (6) years to take the place of the member whose term shall next expire. If a vacancy occurs, it shall be filled by appointment by the Mayor, with the advice and consent of the City Council, for the unexpired portion of the term.~~

**~~3-6-3: [ORGANIZATION:]~~**

~~A. **[Qualifications:]** No member of the Civil Service Commission shall, during the member's tenure in office, hold any other public office, nor shall such member be a candidate for any other public office. Not more than two (2) members of the Civil Service Commission shall at any one time be of the same political party.~~

- B. ~~[Selection Of Chair:] The Civil Service Commission shall organize by selecting one of its members to be chair.~~
- C. ~~[Duties Of City Recorder:] The City Recorder shall act as secretary to the Civil Service Commission and shall keep a record of all meetings and of the work of the Commission, shall have custody of the books and records of the Commission, and shall perform such other services as the Commission may require.~~
- D. ~~[Establish Rules And Regulations:] The Civil Service Commission shall make all necessary rules and regulations to carry out their duties, and for examinations, appointments and promotions. All rules and regulations shall be printed by the Commission for distribution.~~
- E. ~~[Compensation:] Each member shall receive twenty five dollars (\$25.00) per diem for each meeting of the Commission attended; provided however, that no member shall receive more than one hundred dollars (\$100.00) in any one month.~~

**~~3-6-4: [DUTIES AND RESPONSIBILITIES:]~~**

~~The Civil Service Commission shall have the responsibility for all examinations and establishing the classified civil service list, from which appointment and promotions shall be made for positions in the classified civil service. The Civil Service Commission shall hear and decide appeals of members of the classified civil service who have been suspended or discharged in accordance with the provisions of Utah Code Annotated section 10-3-1012, or any successor section. The Civil Service Commission jurisdiction shall be limited to those matters provided by State law.~~

**~~3-6-5: [REMOVAL:]~~**

~~Any member of the Civil Service Commission may be removed from office by the Mayor for cause, including misconduct, inability or wilful neglect of duty. Such member shall have an opportunity to be heard in a hearing meeting, the minimum standards of due process of law, if desired by the member.]~~

**SECTION 2. Chapter Amended.** Chapter 7 of Title 3 of the Ogden Municipal

Code is hereby amended to read and provide as follows:

**Chapter 7**

**[EMPLOYEE APPEALS [BOARD]]**

**ARTICLE A: [MERIT EMPLOYEES:]**

**3-7A-1: [RIGHT OF APPEAL:]**

- A. [Entitlement:] Except employees described in Utah Code Ann. § 10-3-1105(2), and members of the sworn public safety service, an employee who is discharged, suspended for more than two days without pay, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, may appeal to the hearing officer the final decision to discharge, suspend without pay, or involuntarily transfer.
- B. [Hearing Officer:] The hearing officer is established as the Chief Executive Officer of the City or his or her designee.
- C. [Exhaustion of Remedies:] The employee shall exhaust all administrative remedies before appealing to the hearing officer.
- D. [Exclusion:] This article does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.
- E. The administration shall adopt policies implementing the appeal process authorized by this article.

**ARTICLE B: [SWORN PUBLIC SAFETY EMPLOYEES; PUBLIC SAFETY EMPLOYEE APPEAL BOARD:]**

**3-7B-1: [RIGHT OF APPEAL:]**

**3-7B-2[1]: [ESTABLISHED; [MEMBERSHIP]: APPOINTMENT AND TERMS; REMOVAL:]**

**3-7B-3[2]: [[APPOINTMENT OF MEMBERS:] ORGANIZATION:]**

**3-7B-4[3]: [[TERMS, VACANCIES AND COMPENSATION]: DUTIES AND RESPONSIBILITIES:]**

**[3-7B-4: RIGHT OF APPEAL:]**

**3-7B-5: [RULES AND REGULATIONS:]**

**3-7B-6: [ADMINISTRATIVE SUPPORT:]**

**3-7B-1: [RIGHT OF APPEAL:]**

- A. [Entitlement:] A sworn employee in the police or fire department, other than chiefs, assistant chiefs and introductory employees, who is discharged, suspended for more than two days without pay (16 hours for a 40-hour work

week, or 24 hours for a 56-hour work week employee) or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, may appeal to the public safety employee appeal board the final decision to discharge, suspend without pay, or involuntarily transfer.

- B. [Exhaustion of Remedies:] The employee shall exhaust all administrative remedies before appealing to the public safety employee appeal board.
- C. [Exclusion:] This article does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

**3-7B-2[4]: [ESTABLISHED; MEMBERSHIP APPOINTMENT AND TERMS; REMOVAL:]**

- A. [Dissolution of Civil Service Commission:] Pursuant to Utah Code Annotated section 10-3-1003(1)(a), Ogden City hereby dissolves the previously-established civil service commission, together with all rules and regulations promulgated by the civil service commission.
- B. [Establishment of Public Safety Employee Appeal Board:] A[n] public safety employee appeal board is hereby established, which shall consist of three (3) members appointed by the Mayor, with the advice and consent of the City Council. Their term of office shall be for three (3) years; provided however, that of the first appointments, one shall serve until June 30, 2019, and another to serve to June 30, 2020, and another member to serve until June 30, 2021. In the month of June 2019, and every year thereafter, one member shall in like manner be appointed for the term of three (3) years to take the place of the member whose term shall next expire. If a vacancy occurs, it shall be filled by appointment by the Mayor, with the advice and consent of the City Council, for the unexpired portion of the term. Any member of the public safety employee appeal board may be removed from office by the Mayor without cause. Any member may serve more than one term if re-appointed. [from the following panel of eligible city officers: the chief administrative officer, department directors and division managers. Each panel shall be appointed by the mayor or the chief administrative officer, if so designated by the mayor.]

**3-7B-3[2]: [APPOINTMENT OF MEMBERS:] [ORGANIZATION:]**

- A. [Qualifications:] No member of the public safety employee appeal board shall, during the member's tenure in office, hold any other public office, nor shall such

member be a candidate for any other public office. Not more than two (2) members of the public safety employee appeal board shall at any one time be of the same political party.

**B. [Selection Of Chair:]** The public safety employee appeal board shall organize by selecting one of its members to be chair.

**C. [Establish Rules And Regulations:]** The administration shall adopt policies implementing the appeal process authorized by this Article.

**D. [Compensation:]** Each member shall receive twenty five dollars (\$25.00) per diem for each meeting of the board attended; provided however, that no member shall receive more than one hundred dollars (\$100.00) in any one month.

~~[For each employee appeal brought before the employee appeal board, the mayor or the chief administrative officer, if so designated by the mayor, shall appoint and assemble three (3) appeal board members from the panel of eligible officers. If the chief administrative officer is authorized by the mayor to make such appointments, the chief administrative officer may appoint himself or herself as one of the three (3) members. Appointment of members should be made so as to minimize conflicts of interest. No director may serve on an appeal board hearing an appeal arising from that director's department. The chief administrative officer will act as chair of any appeal board on which he or she serves, otherwise the chair will be designated as part of the appointment process.]~~

**3-7B-4[3]: [TERMS, VACANCIES AND COMPENSATION DUTIES AND RESPONSIBILITIES:]**

The public safety employee appeal board shall hear and decide appeals of sworn employees in the police and fire departments, other than chiefs, assistant chiefs or deputy chiefs, and introductory employees, with respect to discharge, suspension for more than two days without pay, involuntarily transfer from one position to another with less remuneration for any disciplinary reason. Demotions do not include removal of assignment in the police and fire departments. For sworn fire personnel, suspensions of more than 16 hours for a 40-hour work week employee or more than 24 hours for a 56-hour work week employee are eligible for appeal.

~~[A. Each member appointed to serve on an appeal board panel shall serve until completion of the appeal, unless membership is otherwise terminated by death, disability, or termination of employment. Vacancies in an employee appeal board may be filled by appointment of the mayor, or the chief administrative officer, if so designated by the mayor.~~

~~B. No member of the employee appeal board shall receive additional compensation for serving as a member of the board. Hearings of the employee appeal board and~~

~~administrative matters related thereto may be conducted during normal working hours.]~~

**~~[3-7-4: [RIGHT OF APPEAL:]~~**

~~A. Entitlement: All employees of the city having appeal rights, as determined by subsection B of this section, or as otherwise required by law, shall be entitled to appeal to the employee appeal board any action resulting in a discharge or a transfer to a position with less remuneration because of the employee's politics or religious belief, or incident to, or through changes, either in the office of the mayor, members of the city council or heads of departments. No other grounds shall be the basis of an appeal to the employee appeal board.~~

~~B. Exceptions: All employees of the city shall have appeal rights under this chapter except for the following:~~

- ~~1. Department directors, deputy directors and the chief administrative officer;~~
- ~~2. All statutory officers appointed by the mayor, with the advice and consent of the city council, including the city attorney, the city recorder, the city engineer, the city treasurer, and the finance officer (whether or not appointed as department directors or division managers);~~
- ~~3. Division managers or other superintendents of the city;~~
- ~~4. "Part time employees", as defined under section 2-6-3 of this code;~~
- ~~5. Probationary employees and introductory employees, as defined under section 2-6-3 of this code;~~
- ~~6. Temporary employees and casual or seasonal employees, as defined under section 2-6-3 of this code;~~
- ~~7. Members of the police department and fire department, including the fire chief, the police chief, and assistant or deputy chiefs;~~
- ~~8. Personnel assigned to the mayor's office;~~
- ~~9. City council staff;~~
- ~~10. Other officers or employees appointed by the mayor or chief administrative officer.]~~

**~~3-7B-5: [RULES AND REGULATIONS:]~~**

~~The following rules shall apply to appeals before the public safety employee appeal board:~~

A. **[Written Notice; Hearing:]** An employee appealing, when permitted by these ordinances, shall file a written notice of appeal with the city recorder within ~~[ten (10)]~~ fourteen (14) calendar days after the subject action. The notice of appeal shall be upon a form approved by the chief administrative officer and available in the city recorder's office. Upon the filing of the appeal, the city recorder shall forthwith refer a copy of the same to the public safety employee appeal board ~~[mayor or chief administrative officer, if designated by the mayor with appointment authority. Upon receipt of the referral from the city recorder, the members who will serve on the appeal board shall be appointed.]~~ The appeal board shall ~~[, except as provided below,]~~ set a date for a hearing, take and receive evidence and fully hear and determine the matter which is the subject of the appeal.

~~B. **[Informal Discussion Prior To Hearing:]** The appeal board shall not conduct a hearing on an appeal until the officer or employee has had an informal discussion with his or her department director attempting therein to resolve the matters at issue. Said discussion may take place before or after the filing of a notice of appeal. Unless the officer or employee and the department director mutually otherwise agree, only those two (2) parties shall be present during the informal discussion, and no formal record or tape recording of the discussion will be kept. The appeal board shall proceed with a hearing if it finds that a department director has failed or refused to conduct the informal discussion required by this subsection within ten (10) working days after the officer or employee has requested such a discussion.]~~

~~B~~[C]. **[Personal Appearance; Representation:]** The officer or employee shall be entitled to appear in person and to be represented by counsel (who may be, but is not required to be, an attorney at law), to have a public hearing, to confront the witness whose testimony is to be considered and to examine the evidence to be considered by the appeal board.

C. **[Review by Mayor]** A final action or order of the public safety employee appeal board can be modified or vacated by the mayor within fifteen (15) days of its issuance. After such period, the board's written decision or order will be considered final and shall not be subject to further appeal or proceeding within the jurisdiction of Ogden City.

D. **[Appeals To The Court Of Appeals:]** A final action or order of the public safety employee appeal board may be appealed to the court of appeals by filing with that court a notice of appeal within thirty (30) days after issuance of the final action or order.

E. **[Decision ~~[By Secret Ballot:]~~** The decision of the appeal board ~~[shall be by secret ballot, and]~~ shall be certified to the city recorder within fifteen (15) calendar days from the date the matter is referred to it, except that for good cause, the appeal board may extend the fifteen (15) day period to a maximum of sixty (60) days, if the employee and city both consent. Each decision of the appeal board shall require a majority of two (2) votes in favor of the decision to take effect. If the appeal board

finds in favor of an employee, the decision shall provide that the employee shall receive his or her salary, or any deficiency in salary, for any period of time during which he or she was wrongfully deprived of the same.

D[F]. **[Certification Of Decision:]** In the event that the appeal board does not uphold the action which is the subject of the appeal, the city recorder shall certify the decision to the officer or employee affected, and also to the director of the department from whose order the appeal was taken. The officer or employee shall be paid his or her salary, commencing with the next working day following the certification by the city recorder of the appeal board's decision; provided, that the employee or officer concerned, reports for his or her assigned duties during the next working day. The appeal board may award only the relief described in this section.

E[H]. **[Standard Of Review:]** The standard of review before the public safety appeal board shall be whether the employment action complained of constitutes an abuse of discretion.

**3-7B-6: [ADMINISTRATIVE SUPPORT:]**

All administrative support, including, but not limited to, record keeping, secretarial, facilities, minutes and notice shall be provided by the city recorder's office.

**SECTION 3. Effective date.** This ordinance shall be effective immediately upon posting after final passage.

**PASSED, ADOPTED AND ORDERED POSTED** by the Council of Ogden City, Utah this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CHAIR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

**TRANSMITTED TO THE MAYOR ON:** \_\_\_\_\_

**MAYOR'S ACTION:**  Approved  Vetoed

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

**POSTING DATE:** \_\_\_\_\_

**EFFECTIVE DATE:** \_\_\_\_\_

**APPROVED AS TO FORM:** \_\_\_\_\_  
Legal Date

\* The headings, catchlines or catchwords suggested for use in the Ogden Municipal Code and which are bracketed at the beginning of sections or subsections, shall not be considered to be a part of the ordinance adopted herein.



# Ogden City Police Benefit Association



**OPBA BOARD  
MEMBERS**

Ogden City Council Members,

October 25<sup>th</sup> 2016

**PRESIDENT  
Travis Kearl  
801-721-2027**

The Ogden Police Benefit Association has been involved throughout the process of revising the current status of Civil Service. We were pleased to be invited into the meetings and that our input in those meetings was heard and taken into consideration. The OPBA supports the Police Administration as well as the City Administration in this process. We were able to voice concerns and have supported the positive outcome we feel will be the result of this change. We also acknowledge and appreciate the long hours and hard work that has gone into this process and will continue to support it through finalization.

**FIRST VICE  
Zachary Nold  
605-214-0538**

**SECOND VICE  
John Pickett  
801-706-2801**

Sincerely,

**SECRETARY  
Brayton Doxstader  
801-389-3813**

**TREASURER  
Kyle Powell  
801-860-2817**

Detective Travis Kearl  
OPBA President

**TRUSTEE  
AT LARGE**

**TRUSTEE  
Travis Gerfen**

**ADMINISTRATIVE ORDER NO.**

**ADMINISTRATIVE ORDER AMENDING THE OGDEN CITY PERSONNEL POLICIES AND PROCEDURES MANUAL.**

**WHEREAS**, the Ogden City personnel policy manual requires amendments to various sections pertaining to sworn public safety employees.

**NOW, THEREFORE**, I, Michael P. Caldwell, Mayor of Ogden, as Chief Executive Officer and pursuant to the authority granted me by Section 2-6-1 of the Ogden Municipal Code, and pursuant to the procedures outlined in Ogden City Administrative Policy No. 1702, hereby order that the Ogden City Personnel Policies and Procedures Manual be amended as follows:

**SECTION 1.** Section amended. Section 1-12 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**1-12: [HIRING AUTHORITY AND PLACEMENT:]**

- A. **[Policy Statement:]** It is the policy of the city to fill vacancies with qualified individuals who are able to perform job functions properly, appropriately and adequately. This policy extends to all aspects and phases of the employment life cycle, from job announcement, recruitment, hiring, performance evaluation, discipline and separation. While the city generally recruits and hires from within existing employment ranks, the city reserves the right to accept applications from noncity employees.
- B. **[[Classified] Sworn Public Safety Employees:]** All full-time sworn employees within the police and fire departments, except the heads of the departments, deputy chiefs of the fire department and deputy chiefs of the police department, are ~~[classified]~~ sworn public safety employees and shall be recruited, selected and appointed pursuant to rules and regulations adopted by the mayor and by the chiefs of the police and fire department consistent with administrative policy ~~[the Ogden City civil service commission rules and regulations]~~.
- C. **[Merit and Sworn Public Safety Positions:]** The following guidelines are those the city will generally use and consider when taking action to fill a job vacancy in a merit and sworn public safety position:

1. Former employees with reinstatement rights will be considered pursuant to the reinstatement rights policy in this manual.
2. Vacant positions will be posted for a minimum of five (5) working days in the human resources office and may be advertised in appropriate newspapers, professional journals, ~~[and] publications, and~~ electronic bulletin boards. Announcements will also be distributed ~~[to the various city departments for posting at appropriate work sites]~~ via email and may be distributed to the general public. Applications will then be accepted from current employees, as well as nonemployees, when applicable, ~~[in]~~ on-line through the human resources office until twelve o'clock (12:00) midnight on the closing date contained in the vacancy announcement.
3. Testing procedures applicable to job position qualifications, which serve to apply knowledge, skill and ability to demonstrate successful completion of essential job functions, and as outlined in these rules and procedures shall be conducted by the human resources office, or under their direction and guidance.
4. An eligibility list shall be compiled and the top five (5) eligible candidates shall be certified by the human resources office to the appointing authority for selection to the vacant position. The appointing authority may select any person on the certified eligible list for appointment. In the event the appointing authority has less than five (5) available persons from which to make a selection and no additional names can then be certified, he/she may choose from the certified names available, may elect to postpone filling the vacancy until the names of at least five (5) available persons can be certified (including that the vacancy be opened up to noncity employees), or may fill the position by a temporary appointment. For entry level sworn police and fire vacant positions, the names of ten (10) eligible candidates shall be certified, with one (1) additional name for each vacant position. The appointing authority may select from among any of the certified candidates to fill a vacancy in an entry level position.
5. Division managers of the city may make recommendation for selection to the department director. Subject to the terms and conditions of this hiring procedure and guideline, the department director shall otherwise have final authority in the hiring process. Only those applicants properly certified by ~~[the civil service commission or]~~ the human resources office will be considered for appointment.
6. Anyone who believes these procedures were not followed or who wishes to make an inquiry or raise a concern or issue about the proper and appropriate application of these procedures, may contact the human resources office and file a written inquiry or protest. Any inquiry or protest

by an applicant shall be filed within five (5) days from the date a hiring decision has been made, or shall not be considered.

7. After a period of not more than fourteen (14) calendar days from the date of receipt of a written inquiry or protest, the human resources office shall make a written reply to the petitioner, and a copy of that reply shall be filed with the chief administrative officer and the department director.
8. The city reserves the right to investigate any hiring procedure or process, evaluate and analyze data and information received, and otherwise modify, amend or set aside any hiring decision which violates any policy or the best interests of the city. Such investigations shall be performed as directed by the chief administrative officer.
9. Prior to placement in a position and commencement of work activity for any newly hired employee, a drug and alcohol test shall be performed and completed to determine and verify fitness for duty. (See medical information and examination policy in this manual.)

**SECTION 2.** Section amended. Section 2-1 of the Ogden City Personnel

Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-1: [EMPLOYMENT CATEGORIES:]**

The employees of the city are classified into various employee categories that relate to employment status, hiring procedures, grievance procedures, compensation, benefit eligibility and the applicability of certain federal and state laws. These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and the city. Such categories or classifications are subject to change depending upon the requirements of state or federal law or the requirements of city ordinance.

- A. **[Fair Labor Standards Act (FLSA) Classification:]** Each employee is designated as either nonexempt or exempt from federal and state wage and hour laws. Nonexempt employees are entitled to overtime pay under the specific provisions of federal and state laws. Exempt employees are excluded from specific provisions of federal and state wage and hour laws. An employee's exempt or nonexempt classification may be changed only upon written notification by the city management.
- B. **[City Employment Categories:]** The city also places employees in one of three (3) employment categories, which reflect certain job conditions and/or

protections the employee has, or does not have. These three (3) categories are:

1. ~~[Classified Service]~~ Sworn Public Safety Service: This category includes ~~[these]~~ full-time sworn employees of the police and fire departments, except their respective department directors and deputy chiefs ~~[, as required by state law. The classified service can be comprised of full time, qualified part time, part time, casual/seasonal, introductory or temporary employees].~~
2. Merit Service: The merit service includes the employees of the city who are not members of the ~~[classified service]~~ sworn public safety service and are not classified as members of the nonmerit service. The merit service is comprised of ~~[either]~~ full time employees ~~[or as such terms are defined below.]~~
3. Nonmerit Service: Members of the nonmerit service are comprised of:
  - a. The mayor and members of the city council.
  - b. The chief administrative officer, department directors, including the fire chief and the police chief, deputy department directors, division managers, deputy division managers, city treasurer, city recorder, ~~[finance officer]~~ finance manager/comptroller, city engineer, city attorney, court administrator, deputy or assistant city attorneys and prosecutors, and deputy chiefs within the police and fire departments.
  - c. Anyone serving on the mayor's personal staff, including any assistants, or other support staff.
  - d. The executive director, policy analysts serving on the city council staff, or any assistants or other support staff of the city council.
  - e. Assistants or staff to the chief administrative officer.
  - f. Casual or seasonal employees, as defined herein~~[, who are not part of the classified service].~~
  - g. Part time employees, as defined herein~~[, who are not part of the classified service].~~
  - h. Introductory employees, as defined herein~~[, who are not part of the classified service].~~

- i. Temporary employees, as defined herein~~[, who are not part of the classified service]~~.
  - j. Student interns, as defined herein~~[, who are not part of the classified service]~~.
  - k. Special temporary employees, as defined herein~~[, who are not part of the classified service]~~.
- C. **[Additional Categories:]** In addition to the above three (3) categories, employees of the city will also belong to one of the following categories:
1. Nonmerit, Special Employees: Nonmerit, special employees are those members of the nonmerit service who are identified under subsections B3a through B3e of this section, and who have been approved under the city budget, as adopted by the Ogden City council.
  2. Full Time Employees: Full time employees are those employees regularly scheduled to work the city's full time schedule. Full time positions are identified and approved under the city budget, as adopted by the Ogden City council.
  3. Part Time Employees: Part time employees are those who are regularly scheduled to work twenty-~~none~~ nine (29) hours or less per week. An employee shall be presumed to be "regularly scheduled" as a part time employee, if the employee has not worked more than twenty-nine (29) hours per week, or not worked on a regular basis.
  4. Seasonal Employees: Seasonal employees are those who have established an employment relationship with the city but who are assigned to work on an intermittent and/or unpredictable basis. Employees in this category may work for indefinite periods of time; however, such employment must comply with the hour restrictions set forth under the affordable care act (ACA). Please see the human resources division for specific details.
  5. Introductory Employees: Introductory employees are those whose performance is being evaluated to determine whether further employment in a specific position with the city is appropriate. Employees who satisfactorily complete the introductory period will enter the other applicable employment category.
  6. Temporary Employees:
    - a. Temporary employees are those who are hired as interim replacements to temporarily supplement the work force or to assist

in the completion of a specific project, and whose employment is of limited duration. Temporary employment assignments shall not exceed six (6) months. An additional six (6) months' extension may be granted with the specific approval by the chief administrative officer. (Any decision to approve such extension will take into consideration the requirements for overtime pay and state retirement benefits which may accrue by reason of such extension.) Unless an extension is granted, no person may be appointed as a temporary employee, if it would result in more than six (6) months of service in that position within any calendar year.

- b. Employment as a temporary employee beyond the above periods, or beyond any initially stated period, does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of a change. Temporary employees may be scheduled to work differing hours each week. Schedules for temporary employees may vary and can even be up to forty (40) or more hours each week.
7. Student Interns: Student intern employees are temporary employees who are hired by the city to provide professional or technical service related to their undergraduate or graduate level education. Student internships are intended to provide cost effective service to the city while providing professional experience for a student. Interns serve on a temporary basis, may not serve more than twenty four (24) consecutive months, and must be registered as students at a college or university at least two (2) quarters or one semester of every academic year. They may serve as employees for no more than twenty nine (29) hours per week during the time in which they are actively registered as a student, and no more than forty (40) hours per week during times of the year in which they are not enrolled in classes. However, they must comply with the hour restrictions as set forth under the affordable care act (ACA). Please see the human resources division for specific details. They may not serve as student intern employees for more than one year after completing coursework for their degree. Interns receive only those employee benefits required by state or federal law.
8. Special Temporary Employees: Special temporary employees are temporary employees who are appointed by the mayor upon terms set forth in a written contract signed by the employee and the mayor or chief administrative officer, and who are employed to carry out special projects exceeding six (6) months in duration whose position is subject to a specific and dedicated funding source, other than the general fund, which is time limited and expected to expire. A special temporary employee shall not fill a grant funded position if by the terms of the grant the position must continue after expiration of grant funding. Except as expressly provided

otherwise in a written employee contract, a special temporary employee is a nonmerit, at will employee, without rights to employee benefits. Furthermore, the providing for employee benefits or other terms of employment in an employee contract shall not convert a special temporary employee's employment status into any other employee category.

**SECTION 3.** Section amended. Section 2-6 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-6: INTRODUCTORY PERIOD:**

- A. **[Intent:]** The introductory period is intended to give new merit and sworn public safety employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The city uses this period to evaluate employee capabilities, work habits and overall performance. Either the employee or the city may end the employment relationship at will at any time during the introductory period, with or without cause or advance notice.
- B. **[Days Specified:]** All new and rehired employees work on an introductory basis for the first one hundred eighty (180) calendar days after their date of hire, except in the case of police officers whose one hundred eighty (180) day introductory period will begin the date of Peace Officer Standards and Training (POST) certification. Employees who are promoted or transferred within the city must complete a secondary introductory period of the same length with each reassignment to a new position. Any continuous absence in excess of ten (10) working days will automatically extend an introductory period by the length of the absence. If the city determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period not to exceed six months.
- C. **[Promotions; Transfers:]** In cases of promotions or transfers within the city, an employee who, in the sole judgment of the department director, is not successful in the new position can be removed from that position at any time during the secondary introductory period. If this occurs, the employee will be allowed to return to his or her former job or to a comparable job for which the employee is qualified, depending on the availability of such positions and the city's needs.
- D. **[Satisfactory Completion:]** Upon satisfactory completion of the initial introductory period, employees enter the designated employment category.

- E. **[Benefits During Introductory Period:]** During the initial introductory period, new employees are eligible for those benefits that are required by law, such as workers' compensation and social security. After completing the introductory status, employees may also be eligible for other city provided benefits, subject to the terms and conditions of each benefits program. Employees should read the information for each specific benefits program for the details on eligibility requirements.
- F. **[Benefits During Secondary Period:]** Benefits eligibility and employment status are not affected during the secondary introductory period that results from a promotion or transfer within the city.

**SECTION 4.** Section amended. Section 2-7 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-7: LAYOFF AND REDUCTION IN FORCE PROCEDURES:**

- A. **[Intent:]** In this policy the city has established specific procedures by which layoffs or reductions in force shall occur. It is the intent of the city that these procedures serve as guidelines to follow whenever a department, division or citywide reduction in the employment work force may occur. The city desires to follow these guidelines in an effort to set forth some systematic methodology to follow, while still retaining those employees with the necessary skills and abilities in those key or essential jobs to otherwise provide the best possible service and benefit to the public and in the public interest.
- B. **[Modification Of Procedures:]** The city retains the right to modify these guidelines and procedures, as well as to establish others, in order to retain the right to direct and control the work force for the purpose of providing the best, possible service to the public and protect the safety and property of the public in the public interest.
- C. **[Policy Scope:]**
  - 1. Only full time merit and sworn public safety ~~[classified]~~ employees are eligible for protection under this layoff policy. Employees who have been subject to disciplinary suspension or probation during the twenty four (24) months preceding a reduction in force are not protected under this policy.
  - 2. For the purposes of interpreting and enforcing this policy, time in service shall be determined as beginning with the employee's appointment to a full time position, and includes only such actual service time in the employee's

present job family. Service time includes all service time in the most recent appointment including periods of approved leave.

**D. [Procedures For Layoff:]**

1. Job performance, punctuality, reliability, licenses, certifications, disciplinary status and history, and other job related criteria will be considered by the department director as factors in determining specific layoffs of positions and individuals. Additional factors include special skills, training, knowledge or education possessed by an individual and/or reasonably required to perform the duties of a retained position. If everything else is considered equal between positions and individuals, the person(s) with the least time in service in a job category within a job family will be the first affected by the layoff.
2. Affected employees in the higher classification within a job family will displace employees within the same division in a lower classification in the same job family, or the employees in the higher job classifications will be subject to layoff. Displacement of employees as described herein may only take place within the city division that the layoff occurs; other divisions shall not be affected. When an employee whose position is being eliminated through a reduction in force is offered a position at a lower range in the same job family within the city as an alternative to being laid off, that employee's current salary level may be frozen in the new position until such time as the salary range of the lower position includes the frozen salary, except that after six (6) months the employee's salary level shall be unfrozen and moved to the nearest point within the range of the new position. This may result in a reduction in salary.
3. Laid off employees will receive written notice from the human resources office before the effective date of the layoff and will be provided a predetermination hearing opportunity prior to any layoff. See grievance procedures~~[-civil service rules and regulations]~~, predetermination hearings and other applicable policies.

**SECTION 5. Section amended.** Section 2-8 of the Ogden City Personnel

Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-8: [REINSTATEMENT RIGHTS:]**

Subject to position availability, and the terms and conditions of this policy, the city allows certain former, eligible employees to return to their same or lesser class, position or rank within two (2) years from the date of last separation and with

certain credit for former service with the city. Reinstatement rights must be approved by the human resources officer.

- A. **[Eligibility:]** Eligible employees are merit and sworn public safety ~~[classified]~~ employees.
- B. **[Qualifying Circumstances:]** Reinstatement rights shall ~~[be limited to]~~ include:
  - 1. ~~[these -]~~ Former employees who were transferred or promoted from their former position and such transfer or promotion was either set aside or the transferred or promoted employee did not successfully complete the introductory period for appointment to the new position.
  - 2. When it is deemed to be in the best interest of the city, the police chief, fire chief, or a department director may reinstate a former employee provided there is a vacancy and the former employee is qualified for the position and was not terminated for cause.
- C. **[Effect Of Reinstatement:]** Employees who are properly reinstated to their former jobs and departments shall receive full credit for prior employment with the city for the purpose of determining their compensation within a range, grade and class, and for the purpose of determining their rate of accrual of vacation and sick leave benefits. Employees reinstated to their former jobs shall have their appointment service date amended to be the same date as that of their former job, and shall be compensated based upon the applicable job classification and compensation structure of that former job.
- D. **[Laid Off Employees:]** Employees who have been involuntarily separated due to the city's layoff policy and subsequently apply and are rehired by the city within two (2) years of the layoff, shall qualify for the same rights upon rehire; provided, that they shall have no preference in the hiring decision.
- E. **[Different Work Or Position:]** Employees who are rehired by the city in a department, a field of work or a position that is different from their former employment with the city, shall not be entitled to any consideration or benefits under this reinstatement policy.

**SECTION 6.** Section amended. Section 2-10 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-10: [PERFORMANCE EVALUATIONS:]**

It is the policy of the city that performance evaluations shall be based on a clear description of the duties to be performed and on fair and nondiscriminatory performance standards. Accordingly, department directors shall maintain current position descriptions and performance requirements for all positions under their control. The city encourages departments to make meaningful distinctions based on relative performance of employees, and strives to ensure fairness in evaluations across city departments. Department directors are responsible for performance evaluations of employees within their departments. The authority for day to day supervision of employees, including completion of formal, written performance evaluations, may be delegated to division managers and supervisors as appropriate. Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day to day basis. Formal evaluations are conducted as follows:

- A. **[Introductory Period:]** Formal performance evaluations may be conducted at the end of an employee's initial period in any new position. This period, known as the introductory period, allows the supervisor and the employee to discuss the job responsibilities, standards and performance requirements of the new position.
- B. **[Scheduling:]** Performance evaluations, other than for sworn public safety officers, are to be scheduled approximately every twelve (12) months, coinciding with the end of the fiscal year. While emergencies or compelling circumstance may effect the completion of a performance evaluation, it is the policy of the city that these be completed by the supervisor within four (4) weeks prior to the end of the fiscal year. Performance evaluations for sworn public safety employees shall be completed prior to the employee's anniversary date.
- C. **[Nonmerit Employees:]** It is the policy of the city to also conduct performance evaluations for nonmerit employees on at least an annual basis, and more frequently as may be appropriate and necessary. Since nonmerit employees generally serve within a closer, day to day relationship with their managers or supervisors, their evaluations may take a less formal tone or form. Informal, and even verbal reviews and discussions may be sufficient to adequately track and maintain supervisory oversights and controls.
- D. **[Other Evaluations:]** Department directors may, upon their own decision and action, conduct other formal, written or informal performance evaluations with their employees outside the requirements of an initial or annual evaluation process. It is the policy of the city to encourage department directors to communicate with their employees on an ongoing and as needed basis, to recognize achievement and accomplishment, and to acknowledge performance in writing from time to time where warranted and appropriate.

- E. **[Additional Evaluations:]** Additional performance evaluations are conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths and discuss positive, purposeful approaches for meeting goals. Supervisors are strongly encouraged to resolve negative performance issues well in advance of the annual performance evaluation to avoid an evaluation that falls below the level necessary to qualify an employee for a performance pay increase.
- F. **[Annual Evaluation Required:]** Performance evaluations shall be conducted at least annually with all employees, including merit, ~~classified~~ sworn public safety and nonmerit employees. Department directors shall review all performance evaluations. The department director may change one or more evaluations upon discussion with the responsible supervisor. The evaluation form shall be signed by the employee, their immediate supervisor and the department director. The evaluation form, including signatures, may be completed electronically, if so directed by the human resources office.
- G. **[Wage Adjustments:]** As discussed elsewhere in this manual, performance evaluations are linked to wage reviews and adjustments. While formal evaluations are performed annually, it is the policy of the city that wage adjustments, when made, are based on the employee's actual work performance, and not based on the mere passage of time (i.e., 1 year). Employees, whose work performance is unsatisfactory, or whose behaviors and interactions with respect to job performance standards are unacceptable, shall not have merited a wage adjustment. (See pay for performance policy found elsewhere in this manual.)
- H. **[Request For Review:]** Employees wishing to request a review of a performance evaluation shall be required to file such request for review directly with their department director and with a copy to the human resources office within five (5) days of the effective date of the evaluation, or they shall forfeit any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual. If the employee cannot resolve the matter with the department director, the employee may file a written request for an administrative hearing within fourteen (14) calendar days from the final decision of the department director. Such request shall be filed with the city recorder on a form available through the city recorder's office. The procedure for administrative hearings is discussed elsewhere in this manual

**SECTION 7. Section amended.** Section 2-11 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

## 2-11: [TRANSFERRED EMPLOYEES:]

- A. **[Benefits:]** Transferred employees, who have moved from one department to another, retain the benefits commensurate with both their seniority with the city and their work status in the new transfer. These employees will begin a new introductory period for the new position for work performance only. If a transferred employee is not successful in the position, he/she may be placed back to the old position held immediately prior to the transfer, or to another position, subject to availability and the employee's qualifications.
- B. **[Pay:]** Pay for a transferred employee will be determined by the range established for the position and based upon the employee's longevity and other considerations at time of transfer.
- C. **[Conditions For Occurrence:]** Transfers shall occur with the recommendation(s) of the department director(s) involved and the approval of the human resources officer.
- D. **[Disciplinary Investigation:]** It is the policy of the city to prohibit the transfer of any employee, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any transfer. The only exception to this policy may be made in the sole discretion of the chief administrative officer when he/she determines that a transfer is in the best interests of the city or a department.
- E. **[City Error:]** If a transfer decision and placement is set aside due to an error on the part of the city, the involved employee shall be allowed to return to their former job without any prejudice to the employee, or to their compensation or benefits, so long as their former position, or one similar to it, is available. If such employee in the full time merit or full time classified service cannot be returned to their former or similar position because a transfer has been set aside, they shall be placed on the reinstatement list and shall be subject to all reinstatement rights and privileges as discussed elsewhere in this manual. (See reinstatement rights.)
- F. **[Complaints; Review Of Decision:]** An employee wishing to file a complaint or request a review of a decision involving the transfer of an employee shall file such a complaint or request directly to their department director and with a copy to the human resources office within fourteen (14) calendar days of the effective date of the transfer. Failure to file within said fourteen (14) days will result in forfeiture of any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual.

**SECTION 8.** Section amended. Section 2-12 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**2-12: [PROMOTED EMPLOYEES:]**

- A. **[Introductory Period; Benefits:]** Promoted employees are those employees receiving a promotion into a new position. These employees will begin a new introductory period for the new position for work performance only. The promotion will have no effect on their benefit status. If a promoted employee is not successful in the new position within the introductory period, he/she may be placed back to the position held immediately prior to the promotion, or to another position, subject to availability and the employee's qualifications.
- B. **[Pay Increase:]** Promoted employees begin receiving any commensurate pay increase established for the position commencing with the effective date of the promotion, and within the applicable range and placement within the range based upon any longevity and other considerations.
- C. **[Conditions For Occurrence:]** Promotions shall be made by the department director(s), subject to approval of the process of selection by the human resources officer.
- D. **[Disciplinary Investigation:]** It is the policy of the city to prohibit the promotion of any employee, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any promotion.
- E. **[Policy For Promotion:]** It is the policy of Ogden City to promote from within the ranks by filling vacancies with qualified city employees unless determined by the police chief, fire chief, or a department director to be in the best interests of the city. Candidates from all other sources possessing the minimum qualifications will be considered if there is not a sufficient number of suitable candidates to compile an eligible list. Specific procedures exist within city policy to fill vacancies in the sworn public safety [classified] and merit service. (See hiring authority and placement policy in this manual.)
- F. **[City Error:]** If a promotion decision and placement is set aside during the introductory period due to an error on the part of the city, the involved employee shall be allowed to return to their former job without any prejudice to the employee, or to their compensation or benefits, or to another position, subject to availability and the employee's qualifications.

- G. **[Reinstatement:]** If the employee in the full time, merit or full time, sworn public safety [~~classified~~] service cannot be returned to their former or similar position, they shall be placed on the reinstatement list and shall be subject to all reinstatement rights and privileges as discussed elsewhere in this manual. (See reinstatement rights.)
- H. **[Complaint; Review Of Action:]** An employee wishing to file a complaint or request a review of a decision involving the promotion of another employee shall be required to file such a complaint or request for review directly to their department director and with a copy to the human resources office within five (5) business days of the effective date of the promotion, or they shall forfeit any and all rights of grievance, appeal or review under this or any other policy provision of the city contained in this manual.

**SECTION 9.** Section amended. Section 5-4 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**5-4: [LONGEVITY PAY:]**

- A. **[Eligibility:]** Subject to the terms and conditions of this policy, all full time merit [~~and full time classified (except sworn police or fire)~~] employees, who complete at least ten (10) consecutive (or cumulative, except for breaks of service of not less than 6 months) years of employment for the city, shall be compensated with an additional amount paid biweekly.
- B. **[Compensation:]** Beginning on the tenth anniversary date of employment, an eligible employee will be compensated at a rate of ten dollars (\$10.00) per month in longevity pay. Beginning on the eighteenth anniversary date of employment, an eligible employee will be compensated an additional ten dollars (\$10.00) per month in longevity pay. Therefore, beginning on the eighteenth anniversary date, the employee shall be compensated at a total rate of twenty dollars (\$20.00) per month in longevity pay.

**SECTION 10.** Section amended. Section 5-6 of the Ogden City Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**5-6: [ACTING POSITIONS; QUALIFICATIONS:]**

Subject to the terms and conditions of this policy, it is the intent of the city to

provide a framework and guideline within which eligible employees may be appointed to acting positions.

- A. **[Applicability:]** This policy applies only to merit service and ~~classified~~ sworn public safety service employees who are being appointed to acting positions. This does not include temporary change of assignment in the police or fire departments even where there is a change of remuneration. ~~[When the acting position is within the classified service, the appointment shall follow the rules and procedures of the civil service commission in filling acting positions.]~~
- B. **[Placement Decision:]** The decision to place an employee in an acting position of another person or position shall be made by the department director, except where the acting position is subject to appointment by the chief administrative officer or the mayor. An employee is appointed temporarily (due to a vacancy or the temporary absence of an incumbent) to an acting position of higher compensation and authority, only when he/she assumes all the functions and authority of the higher position. Appointments shall be reflected by approval of a personnel action form.
- C. **[Compensation:]** Subject to the terms and conditions of this policy, an employee performing work and service within the scope and role of an acting position, as provided herein, shall enjoy the benefit of additional compensation for such work and service. When additional compensation is allowed for such service, an employee shall be compensated at the point in the pay range for the acting position that results in a five percent (5%) increase in the employee's base compensation that was in effect immediately prior to the temporary appointment. Except for certain employees working shift work within the ~~[classified service]~~ sworn public safety service as provided below, an employee shall be compensated only for service in an acting position if the time in service equals or exceeds thirty (30) consecutive days. Employees who meet the thirty (30) day requirement in an acting position will be eligible for acting pay starting on day thirty one (31). Acting pay will not be retroactive to the first day in the acting position.
1. Sworn police personnel performing service in an acting position which is assigned to a ten (10) hour work shift, shall be compensated only for service in an acting position if the time in service equals at least four (4) consecutive full ten (10) hour shifts. Once this criteria is met, the additional compensation begins from the first hour of the acting assignment and will subsequently be paid for any consecutive work hours.
  2. Sworn fire personnel performing service in an acting position which is assigned to a twenty four (24) hour work shift, shall be compensated only for service in an acting position if the time in service equals at least one full twenty four (24) hour shift. Once this criteria is met, the additional

compensation begins from the first hour of the acting assignment and will subsequently be paid for any consecutive work hours.

- D. **[Prohibited Employees:]** It is the policy of the city to prohibit any employee from serving in any acting role, position or capacity, who is the subject of any current, ongoing or open disciplinary investigation, review or action, or who has been the subject of any disciplinary action within ninety (90) days preceding any consideration for any acting role, position or capacity.
- E. **[Maximum Time:]** The maximum length of time any employee shall be allowed to perform work and service in an acting position or capacity is twelve (12) consecutive months. Should the position still be open at the end of twelve (12) consecutive months, the department director, the chief administrative officer or the mayor, as applicable, shall act to either fill the position or it shall cease to exist as applicable.

**SECTION 11.** Section amended. Section 5-8 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**5-8: [CALLBACK DUTY PAY:]**

Sworn public safety [Classified] and merit employees shall receive a two (2) hour minimum amount of paid work time for any call back to duty during an otherwise scheduled off duty workday, except that police officers providing scheduled telephone testimony shall receive a one hour minimum amount of paid work time. If such callback time places the employee in an overtime situation, then overtime is otherwise payable. Telephone calls from work to an off duty employee are not considered callback duty, however, calls of fifteen (15) minutes or longer may be eligible for compensation as paid work time. (See also compensatory time off policy, work schedules and compensation plan policies in this manual.)

**SECTION 12.** Section amended. Section 5-10 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**5-10: [COMPENSATORY TIME:]**

- A. **[Development Of Policy:]** This compensatory time policy has been developed through management-employee discussions and review. This

policy reflects the final "understanding" of management and employees regarding the city's existing compensatory time policy.

- B. **[Defined:]** "Compensatory time" is defined as the accrued time credits an employee may use as paid time off work, subject to department and city policy, at the employee's normal, regular base pay rate. Like the cash equivalent under the city's overtime policy, employees earn one and one-half (1<sup>1/2</sup>) hours of compensatory time for every hour worked after minimum overtime requirements have been met.
- C. **[Merit Employees And Nonsworn, Classified Employees:]** Department directors may choose by division to compensate merit employees [~~and nonsworn, classified employees~~] for overtime worked with cash or compensatory time. Eligible employees accrue compensatory time in one-fourth (1/4) increments at one and one-half (1<sup>1/2</sup>) times their regular base pay rate for hours worked over forty (40) in a workweek. Compensatory time for merit employees [~~and nonsworn, classified employees~~] is allowed to accumulate up to a maximum of sixty (60) hours. Accumulated compensatory time will be paid out annually. Any accumulated compensatory time that has not been used as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15. Department directors shall designate in writing which payout period is in effect for each division eligible to receive compensatory time in lieu of overtime.
- D. **[~~Classified~~ Sworn Police Officers and Merit Employees in the Police Department:]** [~~Classified~~] [~~s~~] Sworn police officers accrue compensatory time in one-fourth (1/4) hour increments at their regular base pay rate for time worked between forty (40) and forty three (43) hours in a seven (7) day work period. Those who work in excess of forty three (43) hours in a seven (7) day work period will accrue compensatory time for this additional time at time and one-half (1<sup>1/2</sup>). Merit employees in the police department accrue compensatory time in one-fourth (1/4) hour increments at time and one-half (1<sup>1/2</sup>) of their regular base pay rate for hours worked over forty (40) in a work week. Compensatory time for [~~classified~~] sworn police officers is allowed to accumulate up to a maximum of one hundred [~~fifty six (156)~~] (100) hours. Compensatory time for merit employees in the police department is allowed to accumulate up to a maximum of sixty (60) hours. [~~Any accumulated compensatory time credited to a classified, sworn police officer which has not been used as of the final day of the pay period which includes September 30 of each year will be paid out to the officer at his/her regular base pay rate on the second payday following the pay period which includes September 30.~~] Any accumulated compensatory time credited to a sworn police officer or merit employee in the police department may be carried over to a new

calendar year or fiscal budget cycle, but cannot exceed the stated maximum. Accumulated compensatory time may be used at any time pursuant to department leave usage requirements.

**E. [Seasonal, And Full Time Golf Course [~~And Dinosaur Park~~] Employees:]**

These employees accrue compensatory time in one-fourth ( $1/4$ ) hour increments at straight time pay based on the employee's regular base pay rate for hours worked over forty (40) in a workweek. Compensatory time for seasonal, and full time golf [~~and Dinosaur park~~] employees is allowed to accumulate up to a maximum of two hundred (200) hours. When this maximum has been reached, all additional overtime hours worked must be paid at straight time, regular base pay rates to the employee in the payroll period in which it was earned. Any accumulated compensatory time credited to a seasonal and full time golf [~~and Dinosaur park~~] employee which has not been used as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15.

**F. [Employees In Maintenance And Technical Positions In Public Ways And Parks Division:]**

Compensatory time off is only accrued in one-fourth ( $1/4$ ) hour increments at a rate of one and one-half ( $1\frac{1}{2}$ ) times the employee's base rate for hours worked over forty (40) in a workweek. Compensatory time off is allowed to accumulate up to a maximum of two hundred (200) hours. All additional overtime hours worked whenever this maximum has been reached will be paid to the employee at a rate of one and one-half ( $1\frac{1}{2}$ ) times the employee's normal regular base pay rate in the payroll period in which it was earned. Any accumulated, compensatory time remaining unused as of the final day of the pay period which includes March 15, or December 15, depending on which date is designated by the department director, will be paid out to the employee at his/her regular base pay rate on the [~~second~~] payday following the pay period which includes March 15 or December 15.

**G. [Time Off Plans:]**

1. As allowed under the fair labor standards act (FLSA), Ogden City's policy allows the supervisor of a nonexempt employee to schedule the employee to work a differing number of hours during a pay period. This generally means the employee works more hours during one portion of a pay period, and less hours during another portion of the same pay period. Time off plans are designed to control or limit the accumulation, accrual or payment of earned compensatory time or overtime pay by one or more employees. Employees benefit with reduced work periods while still earning their full time compensation.

2. Department directors can implement time off plans for one or more of their respective employees as a tool to better manage the time, staff, money and other resources available to their department.

3. The following is an example of a time off plan:

If the employee works fifty (50) hours in the first week of the pay period, the first forty (40) hours are at straight time pay and the remaining ten (10) hours must be credited at time and one-half (1<sup>1/2</sup>), or fifteen (15) hours equivalent to straight time pay. In the second week of the pay period, the employee is scheduled to work twenty five (25) hours only, and is off the rest of the week. The employee earns full compensation, since fifteen (15) hours of equivalent straight time pay is carried into the second week from the first week.

**SECTION 13.** Section amended. Section 9-6 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**9-6: [EMPLOYEE CONDUCT AND WORK RULES:]**

To ensure orderly operations and provide the best possible work environment, the city expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization. Violations of the city's rules of conduct may result in disciplinary action, up to and including termination of employment.

A. **[Violations Of Rules Of Conduct:]** Many of these rules of conduct are outlined in other sections of this manual. The following are examples of violations of rules of conduct contained in this manual:

1. Any behavior, event or condition which violates the conditions of employment with the city as described in any policy in this manual.
2. Any behavior or event which is a conflict of interest, or divulges confidential information for which a policy exists prohibiting such release or publication. (See the city's conflicts of interest and nondisclosure policy in this manual.)
3. Unauthorized or unacceptable use of city equipment or property as described in the city's personal use of vehicles, use of equipment and vehicles and use of electronic communications and mail system policies.
4. A violation of the city's safety standards as discussed in the safety policy.

5. A violation of the city's overtime policy rules and standards.
  6. A violation of the work schedules policy in this manual when a change in a work schedule or work activity is unauthorized and unapproved, irrespective of whether the employee benefits from such violation.
  7. A violation of the city's sexual harassment or other unlawful harassment policies or any state or federal law prohibiting discrimination against individuals in protected groups or classes.
  8. Any behavior or event which subjects an employee to disciplinary review as part of the city's fitness for duty policies.
  9. Working under the influence of alcohol or illegal drugs or while abusing legal drugs.
  10. Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace, while on duty, or while operating city-owned vehicles and equipment.
  11. Unexcused or excessive absenteeism or any absence without notice; excessive or unexcused tardiness.
  12. Violations of the city's fitness for duty policy.
- B. **[Behavior Resulting In Disciplinary Action:]** In addition to the policies outlined in this manual, the following behavior or conduct may result in disciplinary action, up to and including termination of employment:
1. Actions which violate city ordinances or other local, state or federal laws; including statements or comments which serve as proof or an admission of proof that the employee violated such laws, whether or not a conviction occurred with respect to such violation.
  2. Actions which violate administrative or executive orders of the mayor.
  3. Violations of applicable departmental rules and procedures.
  4. Violations of personnel policies.
  5. Theft or inappropriate removal or possession of property.
  6. Falsification of any city records, including personnel records, timekeeping records, employee expense reimbursement requests, etc.
  7. Behavior or activity which reflects an intent to be dishonest or untruthful.

8. Insubordination or disrespectful conduct or language toward members of the public, superiors or other employees.
  9. Actions which serve to discredit the name, reputation or public mission or interest of the city.
  10. Negligence or improper conduct leading to bodily injury or damage of city-owned property or the property of third parties.
  11. Boisterous or disruptive activity in the workplace; behavior or activity which serves to create disharmony or a disorderly environment without regard for the interest of the city in conducting its business in an efficient, effective and orderly manner.
  12. Fighting or threatening violence in the workplace.
  13. Smoking in prohibited areas.
  14. Possession of dangerous weapons or materials, such as firearms or explosives, except as required or authorized within the employee's scope of employment.
  15. Violation of safety or health rules establish by the city or its departments or divisions, or other safety or health rules or regulations as governed by applicable code or competent authority.
  16. Unauthorized use of telephones, electronic communications or mail systems, city-owned computers and software, or other city-owned equipment or property.
  17. Unsatisfactory performance or conduct.
  18. Unauthorized absence from work station during the workday.
- C. **[Employee Treatment Policy:]** It is the policy of the city to seek reasonable and consistent treatment of all employees and to encourage positive and cooperative relationships among full-time and part-time employees and between employees and supervisors. Nonetheless, the city recognizes that from time to time disputes may arise over actions or discipline as the result of enforcement or interpretation of the policies and procedures of the city and in its manual. Severe or serious disciplinary action may result in suspension, demotion or termination of employees within the scope of the city's policies and procedures.
- D. **[Existence Of Problem Or Grievance:]** When an employee believes a problem or grievance exists which impairs his/her effectiveness in work

accomplishment, he/she should seek to solve any problem or dispute first by discussion with their immediate supervisor. It is the intent of the city to foster relations between employees that are conducive to effective work results by discussing and resolving issues at the lowest possible level.

- E. **[Specific And More Serious Matters:]** In cases where actions and events involve other, specific or more serious matters including but not limited to: sexual or other unlawful harassment, drug/alcohol policy violations, illegal discrimination allegations, and severe discipline which includes suspension, demotion or discharge, the city has set forth other policy to address those issues, as found elsewhere in this manual. (See the predetermination review and appeals procedures policies in this manual.) Employees are encouraged to contact their department director or the personnel office for information related to filing a grievance or an appeal.
- F. **[Mutual Consent Employment:]** Employment with the city is at the mutual consent of the city and the employee, and either party may terminate that relationship at any time. Those employees who are not full-time or qualified, part-time, employees and who do not otherwise enjoy certain job protections within a service classification may be discharged with or without cause at any time. Full-time and qualified, part-time employees in classified and merit service employment categories enjoy rights to appeal certain disciplinary actions taken with respect to their jobs, however, the "at will" employment relationship is not altered thereby. (See predetermination hearings and appeals hearings policies found in this manual.)

**SECTION 14.** Section amended. Section 9-7 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**9-7: [CONFLICT RESOLUTION:]**

- A. **[Intent:]** It is the intent of the city to develop and encourage consistent and clear policies that reflect the standards of work and expected conduct applicable to each employee's position and job requirements. Issues and conflicts can arise in the process of applying and enforcing city policies and procedures. It is the policy of the city that, where and to the extent practicable, issues and conflicts within the work setting and environment be resolved at the lowest possible level in an informal manner that appropriately reflects respect and good faith between individuals.
- B. **[Supervisor:]** When employees are concerned about issues or events pertaining to their work conditions, work environment or their own jobs, they are expected and encouraged to openly and frankly discuss their concerns

directly with their immediate supervisor. If an employee believes it would not be appropriate to discuss a concern with his/her immediate supervisor, then the employee is encouraged to discuss the concern with the next level of supervision in his/her department. In cases where the employee believes it would not be appropriate to discuss his/her concern with any supervisor, then the department director should be contacted and a meeting requested so that the department director can provide specific time to address the employee's concern.

- C. **[[Personnel] Human Resources Officer:]** In cases involving the drug and alcohol use and fitness for duty policy, the sexual (or other) harassment policy, or the city's equal employment opportunity policy, the employee can report his/her concerns directly to the ~~[[personnel]~~ HR officer, if he/she believes it would be inappropriate to discuss a concern with their department director.
- D. **[Communication:]** Work review and evaluation of an employee's job performance are among many important factors in determining an employee's success in any job and the employee's accomplishments. Supervisors and department directors are expected to communicate work performance standards and provide feedback to employees on a regular and ongoing basis throughout their tenure within their respective jobs and departments. Likewise, employees are expected to communicate directly and openly with supervisors and department directors on an ongoing and regular basis to determine that they are meeting work goals, job requirements and achieving the results expected of them by their supervisor and department director.
- E. **[Appeal Rights:]** It is the experience of the city that when communications are open and direct, the work environment and atmosphere can be pleasant and productive. Eligible merit employees and those who are in the classified service have certain appeal rights available to them to ensure reasonable and consistent standards are applied. These other measures are covered by applicable city policy. (See also predetermination hearing and appeals procedures policies in this chapter.)

**SECTION 15.** Section amended. Section 9-9 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**9-9: [APPEALS PROCEDURES:]**

- A. **[Intent:]** Subject to the terms and conditions described in this policy, it is the intent of the city to provide a review to employees in eligible employment classifications, who are the subject of serious disciplinary actions involving

suspensions, demotions and discharge. Additionally, eligible employees may request a review, who have a grievance with respect to appointments and/or promotion which directly affect them; or who have a grievance with respect to actions taken toward them based on their own religious or political beliefs.

- B. **[Types Of Review:]** Certain eligible employment classifications are given different appeals review procedures and scope. The city has two (2) [~~three (3)~~] types of appeals reviews. They are [~~the civil service commission,~~] the public safety employee appeal[s] board and the administrative hearing procedure. Eligibility and scope of each of these types of reviews are described below.
- C. **[Written Request Required:]** Eligible employees are required to file a written request for the applicable appeal review proceeding within fourteen (14) calendar days [~~specific time limits~~] from the date of final action by their department director. [~~For police and fire department employees this time limit is within five (5) calendar days. For all other covered employees, this time limit is within fourteen (14) calendar days.~~]
- D. **[Procedural Instructions:]** Specific procedural instructions and proper forms for filing a written request for an appeal review before [~~the civil service commission,~~] the public safety employee appeal[s] board or the administrative hearing procedure are available through the city recorder's office.
- E. **[[~~Civil Service Commission~~] Public Safety Employee Appeal Board:]** The [~~civil service commission's~~] public safety employee appeal board jurisdiction shall be limited to hearing and deciding appeals of employees involving certain disciplinary and employment related issues in eligible employment classifications.
1. Eligible employment classifications include full-time sworn police and fire employees [~~all employees covered by section 10-3-1105, Utah Code Annotated, as amended,~~] except police and fire chiefs and their deputy or assistant chiefs [~~and temporary employees (those working 30 days or less).~~]
  2. Those issues over which the [~~civil service commission~~] public safety employee appeals board has jurisdiction include:
    - a. Appointment, demotion and promotion in the [~~classified civil service~~] sworn public safety service. Demotion does not include removal of assignment in the police or fire departments even where there is a change in remuneration.
    - b. Suspension of more than sixteen (16) hours for a 40-hour per week employee or more than twenty-four (24) hours for a 56-hour per

week employee and discharge of an employee of the [~~classified civil service~~] sworn public safety service.

- c. Removal of any employee of the [~~classified civil service~~] sworn public safety service for cause, including, as example, misconduct, inability or wilful neglect of duty.
3. [~~It is the intent of the city that the jurisdiction of the civil service commission be limited to those matters provided by Utah state law.~~] The composition of the [~~civil service commission~~] public safety employee appeal board, as well as those particulars with respect to participation and service on the [~~commission~~] board, shall be governed by Ogden municipal code, applicable state and federal law, and otherwise subject to the control of the administration of the city.

**[F. ~~Employee Appeals Board:~~]**

1. ~~The employee appeals board shall have jurisdiction, pursuant to Utah Code Annotated section 10-3-1105 and section 10-3-1106, over employees in eligible employment classifications involving any action with respect to an eligible employee's job specifically with respect to a demotion, a transfer to a position with less remuneration, or discharge from service, and which action was based on an eligible employee's political or religious belief, or incident to or through changes in the office of the mayor, the city council or the director of a department. (See also Ogden City ordinance establishing the employee appeals board.)~~
2. ~~No other grounds other than those described and limited in local and state law shall be, or serve as, the basis of an appeal to the appeals board.~~
3. ~~The composition of members of the employee appeals board and its jurisdiction shall be consistent with section 10-3-1106, Utah Code Annotated, as amended. It is the intent of the city to comply with all legally mandated provisions and limitations with respect to the makeup and jurisdiction of the employee appeals board.]~~

G. **[Administrative Hearing Procedure:]** All grievances and appeals, not specifically assigned to the ~~civil service commission or the public safety employee appeal[s] board~~, will be handled under the following provisions:

1. The chief administrative officer (CAO) shall have jurisdiction, pursuant to Utah Code Annotated section 10-3-1105 and section 10-3-1106, over employees in eligible employment classifications involving any action with respect to an eligible employee's job specifically with respect to a demotion, a transfer to a position with less remuneration, or discharge from service, and which action was based on an eligible employee's political or religious belief,

or incident to or through changes in the office of the mayor, the city council or the director of a department. The employee shall exhaust all administrative remedies before appealing to the CAO. This section does not apply to an employee discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

[4] 2. Under the authority of the mayor and CAO, department directors make employment decisions with respect to the recruitment, screening, employment, training, promotion, discipline, suspension and discharge of employees under their direction. An employee may request an administrative hearing if he/she believes that a condition of his/her employment with Ogden City has been adversely affected by an unjustified action by his/her department director, and that action is not under the jurisdiction of the ~~[civil service commission or the employee appeals board]~~ public safety employee appeal board.

[2] 3. The administrative hearing is intended to provide city employees with a timely, effective and inexpensive means to dispute adverse employment actions. In order to have an administrative hearing, the affected employee must submit a written appeal to the city recorder within fourteen (14) calendar days of the department director's notice of decision.

[3] 4. Administrative hearings will be scheduled as soon as reasonably possible. It is the goal of the city to hold administrative hearings within ninety (90) days of the submission of the written appeal to the city recorder. This hearing will give the interested parties the opportunity to present evidence, information, witness(es), records and/or reasons as to why the action taken by the city or the employee was or was not appropriate. Reasonable notice stating time, place and subject matter shall be given to all interested parties. Both parties, the city and the employee, shall be considered interested parties to the hearing. Either party may be represented by an attorney, or other person, if desired, at its own cost.

[4] 5. The hearing officer shall appoint ~~[a secretary]~~ the city recorder or the recorder's designee to keep an official record of the hearing. An audiovisual recording of the hearing can only be made under the direction and with the consent of the hearing officer. After conducting the administrative hearing, the hearing officer shall have thirty (30) calendar days to issue written findings of fact, conclusions based on those findings, and a written decision or order based on those conclusions. The written decision shall be filed with the city recorder and sent to the appropriate department director and mayor, and mailed to the employee by certified mail, return receipt requested, or acknowledged personal delivery.

[5] 6. An administrative hearing decision can be modified or vacated by the mayor within fifteen (15) days of its issuance. After such period, the hearing officer's written decision or order will be considered final and shall not be subject to further appeal or proceeding within the jurisdiction of Ogden City.

**SECTION 16.** Section amended. Section 10-1 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**10-1: [EMPLOYMENT TERMINATION:]**

- A. **[Types Of Termination:]** Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. There are two (2) general types of termination: voluntary and involuntary.
1. Voluntary: Termination initiated by the employee. Some examples of voluntary terminations include resignation, medical termination and retirement.
  2. Involuntary: Termination initiated by the city. Some examples of involuntary termination include layoff or reduction in force, medical termination, loss of certification or qualifications and performance-related or disciplinary termination.
- B. **[Exit Interview:]** The city generally desires to schedule exit interviews at the time of employment termination. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to the city or return of the city-owned property. Suggestions, complaints and concerns can also be voiced. Exit interviews are scheduled and conducted by the ~~[personnel]~~ HR office. Supervisors and department directors should notify the ~~[personnel]~~ HR office of any impending separation so that exit interviews can be coordinated.
- C. **[Predetermination Hearing:]** Employees in the merit or ~~[classified]~~ sworn public safety service also have specific rights to a predetermination hearing to hear and answer charges and reasons brought against them by management with respect to covered actions that result in discharge. [~~See predetermination hearing policy.~~]
- D. **[At Will Termination:]** All other employees, except by specific written agreement signed by the mayor or the chief administrative officer for the

mayor, can be terminated at will, with or without notice. Likewise, employees have the right to terminate employment with the city at any time, with or without notice.

- E. **[Benefits:]** Employee benefits are affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid under the policies of this manual and any applicable city ordinance, state or federal law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee, spouse and any dependents will be notified in writing of the benefits that may be continued and of the terms, conditions and limitations of such continuance. (See also benefits continuation policy (COBRA) elsewhere in this manual.)
- F. **[Notification Of Qualifying Events:]** This policy and its provisions are not intended to interfere with, nor shall they be construed or interpreted to any extent to interfere with, the proper adherence to the procedures and protocols established in appeals and grievance policies found in this manual. It is the employee's responsibility to notify the ~~[personnel]~~ HR office of a qualifying event, such as when the employee divorces, or upon the birth or death of a family member, or when a covered dependent ~~[marries or]~~ attains their twenty ~~[fifth]~~ sixth (2~~[5]~~6) birthday.

**SECTION 17.** Section amended. Section 10-3 of the Ogden City

Personnel Policies and Procedures Manual is hereby amended to read and provide as follows:

**10-3: [MEDICAL TERMINATION:]**

- A. **[Question Of Ability:]** A question may arise about the medical ability of a merit or ~~[classified service]~~ sworn public safety employee to continue to fulfill and carry out the duties and essential functions of the employee's job. Such a question can arise whenever evidence, information or observation exists which serves to form a reasonable suspicion about whether or not the employee is capable or able to perform his/her job duties to meet the expected performance standards and/or qualifications of his/her position and with respect to the requirements of the job.
- B. **[Examination:]** Whenever a question arises about a merit or ~~[classified service]~~ sworn public safety employee's medical ability to meet the expected performance standards and/or qualifications required in his/her job, the city reserves the right to request a medical health examination be conducted by a licensed medical practitioner of the city's choosing and at the city's expense. This medical health examination may be called for and initiated at the request of a department director or division manager and upon showing sufficient

cause and evidence to support a conclusion that a reasonable suspicion exists to question the medical ability of the employee to perform the functions and tasks required to meet the standards or qualifications of the job.

- C. **[Notification To Employee:]** The employee shall be notified in writing of any question about the employee's medical health and the need for a medical examination. Medical examinations shall be scheduled within a reasonable period of time. The city selected medical practitioner shall certify the results of the examination in writing and shall file a written copy of those results with the ~~[personnel]~~ HR officer, who shall be responsible for distributing copies of same to the employee and the employee's respective director.
- D. **[Leave Of Absence:]** If the results of the examination affirm and support a conclusion that the medical health of the employee is not sufficient to meet the requirements and qualifications of the job, the employee may be placed on a leave of absence. The terms and conditions of any leave shall be subject to the family and medical leave policy of the city, as described in this manual.
- E. **[Notice Of Medical Termination:]** If an employee is unable to perform the full duties and essential functions of the job due to the employee's health condition or disability, the city will send a written notice to the employee. The notice shall inform the employee that should the employee not return to full duty in the job with acceptable medical verification within thirty (30) calendar days from the date of the notice, medical termination from employment in the position shall occur. The thirty (30) day notice may be given at any time that the city believes the employee is not medically fit, and may run concurrent with the final thirty (30) days of family and medical leave, as described in this manual.
- F. **[Applying For Available Job:]** If the employee cannot return to full job duty, the employee may apply for any available job for which they are qualified and medically able (by written medical evidence), subject to the established hiring procedures and applicable policies of the city.
- G. **[Appeal:]** If the employee is dissatisfied with the medical determination obtained from the above procedures, the employee may file an appeal of the medical determination and the employee's termination of employment through the applicable established appeals procedures of the city. The cost of any medical evaluations obtained by the employee shall be paid by the employee. (See appeals procedures policy in this manual.)

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Michael P. Caldwell, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM: \_\_\_\_\_  
Legal Date

DRAFT

OGDEN CITY  
CIVIL SERVICE COMMISSION  
RULES AND REGULATIONS

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Effective Date: May 13, 2015

## INTRODUCTION

Utah State Law directs that all appointments and promotions in the classified service of the city shall be made subject to the rules and regulations of the Civil Service Commission. Classified service consists of all places of employment in the police and fire departments.

It is also intended by these rules to provide a working policy of personnel administration within which both the employees in the classified service and administrators can cooperate on a friendly basis with complete assurance that all personnel problems will be settled upon their merits and that all interested parties, including the public, will have just and equitable treatment.

These rules are authorized by Section 10-3-1006, Utah Code Annotated.

## CHAPTER 1

### DEFINITIONS

#### 1-1 Application of Definitions

For the purpose of these Civil Service Rules, the words and phrases defined in this chapter shall have the meanings in this chapter ascribed to them, unless it is apparent from the content that a different meaning is intended.

#### 1-2 Appointing Authority

The term “appointing authority” as used in these rules refers to the police chief and the fire chief or such chief’s appointee who has been authorized by the Mayor to appoint and to remove subordinates in such department.

#### 1-3 Appointment

The term “appointment” means the designation of a person, by due authority, to become an employee in a position as provided for in these rules.

#### 1-4 Certification

The term “certification” means the official notification to the appointing authority of those qualified candidates who may be appointed to a vacant position in the classified service.

#### 1-5 Class or Class of Positions

The term “class or class of positions” means a group of positions established sufficiently similar in respect to duties and responsibilities that the same descriptive class title may be used to designate each position allocated to the class, that the same entrance qualifications may be required of incumbents in the class, that the same tests of fitness may be used to choose qualified employees, and that the same range of pay may be made to apply with equity under the same, or substantially the same, employment conditions.

#### 1-6 Class Specification

The term “class specification” means a written statement describing the duties, responsibilities, and entrance qualification standards of a class of positions.

#### 1-7 Class Title

The term “class title” means the designation given under these rules to a class and to each position allocated to the class.

1-8 Classification Plan

The term “classification plan” means the plan of classification and grading of all positions in the classified service.

1-9 Classified Service

The term “classified service” shall consist of all places of employment now existing or hereafter created in or under the police department and the fire department except the head of said departments, deputy chiefs of said departments and assistant chiefs of the police department.

1-10 Commission

The term “commission” shall mean the Ogden City Civil Service Commission.

1-11 Demotion

The term “demotion” means a change in employment status from one class to another having a lower range of pay.

1-12 Director

The term “director” shall mean the Management Services Department Director, or his or her designee.

1-13 Disciplinary Probation

The term “disciplinary probation” shall mean a condition in which a classified employee with permanent or regular status is placed on probation for disciplinary reasons.

1-14 Eligible

The term “eligible” means a person whose name is on an appropriate eligible list and who is not ineligible for appointment for other reasons.

1-15 Eligible List

The term “eligible list” means a list of the names of persons who are qualified under the law and these regulations for appointment to a position in the classified service, as listed in the order of their estimated merit and fitness for each position.

1-16 Employee

The term “employee” shall mean a person who is legally an incumbent to a position or who is on authorized leave of absence and whose position is held pending his or her return, and means an officer, or person in the classified service.

1-17 Examination

The term “examination” means an oral and/or written test or tests, and the evaluation of the results thereof, or an unassembled evaluation of experience and training used to determine the eligibility and the relative merit and fitness of candidates for appointment to a position in the classified service.

1-18 Merit

“Merit” is the basis by which individuals are evaluated for entry in the classified civil service as an Ogden City employee and subsequently are evaluated for salary advancement, promotion, retention or dismissal from the merit service. It represents an individual’s objectively demonstrated worth to the city, the value of the employee’s attributes and capacities, not his or her personal characteristics, political affiliation, gender or any other non-service related factor.

1-19 Position

The term “position” means a group of current duties and responsibilities assigned by competent authority, requiring full-time or part-time employment of one person.

1-20 Position Description

The term “position description” means a written statement describing the duties, responsibilities and entrance qualification standards of a class of positions. This term is used interchangeably with “class specification”.

1-21 Introductory Period

The term “introductory period” shall mean a working test period during which an officer or employee is required to demonstrate fitness for the class to which appointed by actual performance of the duties of the position, before the employee’s appointment shall be deemed to be permanent or regular.

1-22 Introductory Status

The term “introductory status” shall mean the status of any employee who has been regularly appointed on promotion, transfer or from an eligible list, but who has not completed the introductory period provided in these rules.

1-23 Promotion

The term “promotion” shall mean a change in employment status from one class to another class with a higher range of pay.

1-24 Provisional Employees

The term “provisional employees” shall mean an employee who has provisional status.

1-25 Provisional Status

The term “provisional status” shall mean the status of an employee who has been appointed to fill a position for which no eligible list exists and which status exists for a term limited as provided by these rules.

1-26 Reclassification

The term “reclassification” means a change in allocation of an individual position, not necessarily the employee assigned to the position, by raising it to a higher class, reducing it to a lower class or moving it to another class at the same level on the basis of a substantial change in the kind, difficulty or responsibility of duties assigned to such position. Reclassification shall not be construed as a promotion or demotion.

1-27 Regular Employees

The term “regular employee” means an employee successfully completing the original probationary period and having regular status under these rules.

1-28 Regular Status

The term “regular status” means the status under these rules of an employee in a position in the classified service to which he or she has been appointed as provided in these rules, for which he or she has successfully completed the introductory period and has been accepted as a permanent employee in such position.

1-29 Rules

The term “rules” refers to the Civil Service Rules of Ogden City.

1-30 Suspension

The term "suspension" shall mean the temporary separation from the service without pay of an employee.

1-31 Test

The term "test" shall mean and include:

- a. Assembled test: A written, oral, performance or physical test at a specified time and place at which applicants are required to appear for competitive testing under supervision, and/or
- b. Unassembled test: An evaluation or an appraisal of training, experience, work history, or any other means for evaluating other relative qualifications of applicants without the necessity for their appearing at a specified place.

1-32 Transfer

The term "transfer" shall mean a change of an employee from one city department to another.

## CHAPTER 2

### GENERAL PROVISIONS AND PROHIBITIONS

#### 2-1 Objective

It is the objective of these rules to establish, in compliance with applicable general law, a system of administrative policies and procedures by which appointment to, promotion, discipline and continued employment within the classified service of Ogden City shall depend on honest, efficient, loyal, energetic and generally meritorious service to the city and its inhabitants in accordance with the highest standards of public ethics, morality and workmanship. To that end, it is intended to protect the honest and efficient public servant from adverse discriminatory action, whether from political or any other improper motive, and thus to secure for the people of Ogden City the services of honest, efficient and experienced public servants. At the same time, it is intended that the administrative officers shall have ample authority to correct where possible, and to remove when necessary, dishonest or inefficient employees without placing upon the administrators an impractical or unfair burden in discharging such unpleasant public duties. The objective and intent, in its essence, is to establish such personnel policies and procedures as will insure to the people of Ogden the maximum in honest and efficient public service by attracting to and retaining in the city's classified service the most meritorious employees available.

#### 2-2 Application of Rules

These rules shall apply to every employee in the classified service as defined by state law.

#### 2-3 Obligations

All officers and all employees in the classified service shall render honest, efficient and economical service in the performance of their duties subject to the penalties invoked by these rules.

#### 2-4 Cooperation

Every officer and employee in the municipal service shall cooperate with the Civil Service Commission and the director in order to fulfill completely the objectives and purposes of state law and these rules.

#### 2-5 Conditions of Employment

No one shall be required as a condition of employment, appointment, transfer, promotion or retention in the services to join any organization or association of employees.

2-6 Basis for Appointment, Promotion, Transfer, Retention, Dismissal

Appointment, promotion, transfer, retention in or termination of services with the classified service will be made on the basis of merit and efficiency.

2-7 Administrative Rules to be Equitable

All administrative rules and regulations with respect to hours of work, vacation, attendance regulation and leaves of absence for any cause for employees in the classified service and the order and manner in which layoffs shall be effected, and similar matters of personnel administration shall be fair and equitable and shall have general application as to all employees within a given class insofar as such equal application is practical, having due regard to the primary objectives of these rules and the efficiency of the service.

2-8 Discrimination Forbidden

No person in the classified service of the city or seeking employment in the classified service of the city shall be appointed, promoted, reduced, removed or in any way favored or discriminated against because of race, political or religious opinion or affiliations, color, sex, national origin or physical handicap.

2-9 Grievance Between labor and Management

Disputes arising out of the interpretation or application of these rules, or other regulations governing standards, classifications, hours of work, employment conditions and the like shall, before taking an appeal as allowed in these rules, be handled by the employee through established supervisory channels prescribed by these rules and any administrative rules issued by the Mayor or the department head.

2-10 Records

The director shall maintain a service record for each employee in the service of the city showing the name, title of position held, the department to which assigned, salary, changes in employment status and such other information as the Mayor or the Commission may require.

2-11 Destruction of Records

Public records shall be maintained or destroyed in accordance with applicable state law.

2-12 Notification of Address

All employees, including those on leave of absence, are required to keep the director informed as to their current home address at all times.

2-13 Violation of Rules, Dismissal Disqualifies

Violation of any of these or other administrative rules or orders or any other conduct prejudicial to the good order, discipline or efficiency of the service shall be grounds for dismissal or other less severe disciplinary action. Any person dismissed for cause may be ineligible for appointment to a position in the classified service for a term of five years. A lesser penalty of suspension or disciplinary probation may be imposed as provided in these rules.

2-14 Service

Whenever in these rules service of any document is required, said service may be made as provided for service of summons by the Utah Rules of Civil Procedure. Service may also be made by the employee's supervisor, the director or the director's representative provided the employee served provides written acknowledgment of being served. Service may also be made by depositing a copy of the document to be served, addressed to the officer or employee, at the employee's last known address as disclosed by the city's records with first class postage pre-paid thereon and registered or certified by the postal authorities.

2-15 Time

Time shall commence to run for reviews or appeals from the date the order appealed from is served on the employee and in the event service is made by mail, at the expiration of three (3) calendar days from the date of deposit in the city post office. Time within which to act, as provided in these rules, shall be computed by excluding the first day and including the last, unless the last day is a holiday, Saturday or Sunday, in which case such days are also excluded and the expiration date shall be the end of the next day which is not a Saturday, Sunday or legal holiday.

2-16 Separability of Provisions

If any rules, subdivision, sentence, clause or phrase of these rules is for any reason held to be invalid, such decision shall not affect the remaining rules, subdivisions, sentences, clauses or phrases.

2-17 Disputed Matters

In disputed matters before the Commission where the city attorney represents the city administration position, the city attorney should not act as legal advisor to the Commission regarding issues pertaining to the disputed matter.

## CHAPTER 3

### COMMISSION

#### 3-1 Organization – Quorum

The Civil Service Commission shall consist of three members appointed according to state law. The commission shall select a chairman and two members shall constitute a quorum.

#### 3-2 Secretary to the Commission

An officer or employee of the city shall be appointed by the commission to serve as secretary to the commission. It shall be the duty of the secretary to keep a minute book containing minutes of all meetings of the commission and, as soon as practical after each meeting of the commission, to file a copy thereof with the city recorder, provided the minutes shall be approved by the commission before filing. The minutes, after approval, and the copy thereof shall be public records.

#### 3-3 Powers and Duties

The commission shall only have the authority and power conferred upon it according to state law.

#### 3-4 Electronic Meetings

Pursuant to Utah Code Ann. section 52-4-207, commissioners may appear telephonically or electronically according to the following provisions.

- A. If one or more commissioners will participate electronically or telephonically, public notice of the meeting shall so indicate. In addition the notice shall specify the anchor location where any commissioners not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
- B. Notice of the meeting shall be posted at the anchor location and as further required under Utah Code Ann. section 52-4-202.
- C. Notice of the possibility of an electronic meeting shall be given to the commissioners at least 24 hours before the meeting. In addition, the notice shall describe how a commissioner may participate in the meeting electronically or telephonically.
- D. When notice is given of the possibility of a commissioner appearing electronically or telephonically, any commissioner may do so and shall be

counted as present for the purposes of a quorum and may fully participate and vote on any matter coming before the commission. At the commencement of the meeting, or at such a time as any commissioner initially appears electronically or telephonically, the Chair shall identify for the record all those who are appearing telephonically or electronically. Votes by commissioners who are not at the physical location of the meeting shall be confirmed by the Chair.

- E. The anchor location, unless otherwise designated in the notice, shall be the City Council Chambers, 2549 Washington Boulevard, Ogden, UT 84401. The anchor location is the physical location from which the electronic meeting originates or from where the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

## CHAPTER 4

### RECRUITMENT OF PERSONNEL TO THE CLASSIFIED SERVICE

#### 4-1 Recruitment – Publicized Position Announcements

The director shall publicize each announcement of position openings in the classified civil service to the end that the best available persons will be attracted to the service of the city. Each announcement shall be publicized for a minimum of five (5) working days unless the commission shall direct otherwise.

#### 4-2 Content of Examination Announcements

Each position announcement shall specify the class title, the nature of the work to be performed, the pay rate or range for the class, the minimum or desirable qualifications, the closing date for the filing of applications and the place and manner of filing applications. The director may, in addition, add such other information as deemed advisable.

#### 4-3 Application Forms

Application forms for employment shall be provided by the personnel office. The application form shall solicit such information as conforms with state and federal law; however, enough information must be presented so as to determine the eligibility of the applicant. Any knowingly false statements made on the application form or on resumes shall be grounds for rejection of the applicant and may be grounds for discharge after employment.

#### 4-4 Notice of Accepted Applicants

Each applicant accepted for examination shall be notified in writing by mail, electronic mail, fax, in person, or by telephone of the exact place, date and hour of the examination if an assembled examination is to be used.

#### 4-5 Disqualification of Applicants

A. The director may refuse to examine an applicant or, after examination, may disqualify such applicant, remove his or her name from an eligible list or refuse to certify any eligible on an eligible list if the applicant:

1. Is not a citizen of the United States where the job or position involves security;
2. Does not possess the minimum qualifications required for the class;
3. Is physically unfit for the performance of the duties of the specific class;

4. Has been convicted of a felony or a misdemeanor involving moral turpitude within a period of five years;
  5. Has willfully made any false statements of any material facts in the application or has practiced or attempted to practice any deception or fraud in the examination or in securing eligibility for appointment;
  6. Has used or attempted to use political pressure or bribery to secure an advantage in establishing eligibility for an examination or appointment;
  7. Has within the last five years been dismissed from Ogden City employment for cause;
  8. Has directly or indirectly obtained information regarding examinations to which, as an applicant, he or she was not entitled;
  9. Has failed to submit the application correctly or within the prescribed time limits;
  10. Has otherwise violated provisions of these regulations.
- B. Whenever an applicant is disqualified, notice of such action with a statement of the reason shall be mailed to the applicant. Any regular employee in the classified service who is disqualified shall have the right to appeal under Section 8-3 of these rules. Non-civil service applicants have no appeal rights.

## CHAPTER 5

### SELECTION OF PERSONNEL

#### 5-1 Objective

The procedures for selection for appointment to the service shall be impartial, of a practical nature and shall be related to those matters which fairly test the relative merit, fitness and ability of the persons examined to discharge the duties and responsibilities of the class to which they seek appointment. In any examination in which the director deems it desirable to do so, there may be included a qualifying test and a minimum qualifying standard. No question in any examination shall relate to political or religious opinion or affiliations or to any other subject matter deemed to be inappropriate or illegal by federal or state law.

#### 5-2 Examinations – Director Ex-officio Chief Examiner

In order to effectuate the provisions of the rules so adopted, the director or the director's appointee shall also serve as chief examiner in examination procedures provided for in these rules.

#### 5-3 Subjects and Types of Tests

As the director may determine, examinations may consist of written, oral, performance or physical tests, any combination thereof, or any other method which will test fairly the qualifications of applicants, including the review of an applicant's work experience and training.

#### 5-4 Written Tests

A written test or tests may be used to measure the knowledge, ability, judgment, personality, emotional stability, aptitude and/or alertness of candidates insofar as such traits are related to ability to perform the work in a class or series of related classes.

#### 5-5 Oral Tests

An oral test may be used to evaluate the personal fitness, experience and training, knowledge, capacity and judgment of candidates. In considering personal fitness, it shall be appropriate to evaluate pertinent personality traits but the evaluation shall be done on a basis which is as objective as possible.

5-6 Performance Tests

Performance tests may be given to obtain from candidates samples of the work of the kind involved in the class of service to which appointment is sought, to rate the work results, speed and accuracy of performance.

5-7 Physical Test

A physical test may be given and may consist of competitive exercises or events designed to measure agility, strength, coordination or fitness as they specifically relate to the physical attributes reasonably necessary to perform the duties and responsibilities of the position applied for. It is in addition to the medical examination made by physicians.

5-8 Experience and Training

Competitive evaluation may be made of the relevance, level, recency, progression and quality of experience and education offered by candidates. This may be done in an oral or an unassembled manner. Reports of superiors, former employers and educational institutions may be considered in this process.

5-9 Medical Examination

An examination by a competent examining physician shall be required of any candidate as a condition of hire. The director, with the advice and consent of the appointing authority, may establish different physical or medical standards for differing types of work. Failure of a candidate to achieve the minimum prescribed standard will result in disqualification for appointment to the specific class. The medical examination shall include a drug and/or alcohol screen consistent with the city's Fitness for Duty Policy.

5-10 Conduct of Tests, Examiners and Compensation

The director, with the approval of the chief administrative officer, may contract with any responsible organization or individual for preparation and scoring of tests. In the absence of such a contract, the director shall be responsible for the performance of such duties. The director shall arrange for the use of public buildings and equipment for the conducting of tests and shall render or secure such assistance as shall be required in connection with the tests including the selection, appointment and use of boards of special examiners when deemed desirable by the director in any phase of the testing process. City officers and employees, acting on such boards, shall serve without additional compensation. Otherwise, such special examiners may be paid their reasonable expenses and/or a daily fee at a rate to be approved by the Mayor.

### 5-11 Disqualifying Offenses

At the discretion of the director, candidates may be disqualified and rejected for any of the following reasons:

- A. Possession in the examination room of any paper, book or memorandum or anything else which might be of use or assistance in the examination other than as permitted by the director. Such articles shall be surrendered to the examiner in charge before the beginning of the examination.
- B. Willfully copying, looking over the work of another candidate or attempting to do so or permitting any candidate to copy or look over any examination sheet or material in possession of a candidate.
- C. Willfully attempting to indicate identity on an examination paper except as instructed to do so by the examiner in charge.
- D. Tardiness in reporting for the examination or failure to appear at a scheduled examination.

### 5-12 Qualifying Grades and Weighing of Parts of Examination

The director may, at their discretion, determine a minimum grade for any part or parts of an examination. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination and shall not be examined on any further parts if they are planned.

Each part of test of the total examination shall be graded independently. This grade shall be multiplied by the weight assigned to such test; the resulting products shall be added; the total of the products shall be divided by the total weight of all subjects in the examination and the resulting quotient shall be the general average used in determining the order in which the names of candidates shall appear on the eligible list. All tests shall use a composite scale of 100 points for final weighted averages.

### 5-13 Notification of Results

Each candidate taking a written examination shall be given written notice either by mail, electronic mail or fax to the address as shown on the application, or by personal delivery of the results, the final rating and, if successful, of the applicant's relative position on the eligible list. Any candidate shall have the right to inspect his or her own test paper within fourteen (14) calendar days after notification of results and thereafter only upon order of the commission after consideration of a candidate's written request to the commission with a general statement of the reasons for such request. In no case shall any candidate have the opportunity to inspect his or her test paper more than six (6) months after the

testing process. An error in grading or rating, if called to the attention of the director within fourteen (14) calendar days after the mailing of notices of results of examination, shall be corrected. Correction shall not, however affect certification or appointment previously made. Inspection may not be used to gather information for future tests for the candidate or other persons. Accordingly, a candidate may take limited written notes; however, electronic recordings, scans, photographs or copies shall not be permitted.

#### 5-14 Promotional Tests

As the needs of the service require, promotional tests may be conducted from time to time and may include, in addition to the types of tests listed in these rules, evaluations of performance for the city and accomplishments in special training courses. Candidates from within the classified service shall be given first consideration for promotion or appointment to a position of higher rank if they possess the minimum employment qualifications as set forth in the position description. Candidates from all other sources possessing the minimum qualifications will be considered if there is not a sufficient number of suitable candidates to compile a list of certified eligible as provided in Chapter 6 of these rules. Continuous service with Ogden City in present grade or position may be a factor in promotional examinations and the weight to be given shall be established for each examination by the director but shall not exceed one tenth of the total weight of all subjects. Seniority points will be awarded based on a maximum of 20 years as a full-time Ogden City sworn police officer or a full-time fire department employee, prorated for days of service. All eligible seniority points will be calculated up to and including the final date applications for the promotional are due. Time in grade, educational standards, certification requirements and any other qualification or testing standards shall be clearly stated in all job promotional opportunities.

#### 5-15 Appeals

Any regular employee in the classified service who is adversely affected by an action in connection with the announcement, holding or scoring or examinations, the preparation or cancellation of eligible lists, disqualification of application, removal from eligible list and the making of appointments from such lists may appeal as provided in Section 8-3 of these rules.

#### 5-16 Eligible Lists – Description

As soon as possible after the conclusion of an examination, the director shall prepare an eligible list consisting of the names of persons successfully passing the examination and ranking high enough to be included on the eligible list. The names shall be arranged in order of final ratings received from the highest score down to the lowest qualifying score. The final rating shall be determined by the total of scores received by each candidate for each part of the examination

based upon the relative value assigned to each part of the examination before it was given. Whenever identical final ratings are received, names shall be arranged in the order of the scores on the part or parts of the examination which were assigned the greatest weight.

5-17 Life of Eligible List

Eligible lists shall become effective upon certification by the commission that the list was legally prepared and represents the relative ratings of the names appearing thereon. Eligible lists shall remain in effect one year unless sooner cancelled by the commission and may be extended by the commission for additional six month periods. No list shall remain in effect for more than two years. At any time during the effective term of an eligible list, the director may add thereto names of new eligible qualified by the giving of another examination. These new names shall be added and merged with the existing list in order of final ratings of those added and those already on the list.

5-18 Disqualification and Removal from List

Names of eligible may be removed from an eligible list by the director for any of the following reasons:

- A. Inability of postal authorities to deliver first class mail to the eligible within a reasonable time.
- B. Inability of the director to notify the eligible within a reasonable time due to the applicant's failure to provide accurate contact information.
- C. Conviction of a felony or a misdemeanor involving moral turpitude or general misconduct.
- D. Proof to the satisfaction of the director of fraud or false statements in the application or of fraudulent or improper conduct in connection with an examination.
- E. Probationary appointment to a position in the class in which the eligible list was established or for which the list is deemed suitable by the director.
- F. Certification for appointment to a vacancy three times without appointment.
- G. The request or death of the eligible.
- H. Failure to appear or to arrange for an interview with the appointing authority within a reasonable designated time after notification of certification.
- I. Refusing an appointment without a reason satisfactory to the director.

5-19 Restoration of Names to Eligible List

Names which have been removed from eligible lists may be restored by the director for the duration of the list for either of the following reasons:

- A. Acceptance of a satisfactory excuse for a previous disqualification or removal from an eligible list.
- B. Acceptance of a satisfactory excuse for non-appearance for interview with the appointing authority after certification.

## CHAPTER 6

### APPOINTMENT TO THE CLASSIFIED SERVICE

#### 6-1 Manner of Filling Vacancies

Except as herein otherwise provided all vacancies in the classified service shall be filled by reinstatement, transfer, demotion, or appointment of eligible persons certified by the director from an appropriate eligible list, if available. In the absence of persons eligible for appointment in these ways provisional appointments may be permitted in accordance with these rules.

#### 6-2 Certification of Eligible List for Appointment

A vacancy may be filled by reinstatement, transfer, demotion, or the following process:

- A. The appointing authority shall make a written request on the proper form for certification of the names of the persons eligible for appointment to the class for which the vacancy exists.
- B. If the commission finds that the required procedures were followed, the commission shall promptly certify the eligible list and request that the director provide the appointing authority with the names of the first ten persons on the eligible list, if the position to be filled is entry level, or the first five persons on the eligible list, if the position to be filled is other than entry level. A lesser number may be forwarded when the required number of names is not available.
- C. If more than one position is available in the same class, the director shall forward one additional name for each additional position to be filled.
- D. In the event the appointing authority has fewer than ten qualified persons from which to make a selection, if the position to be filled is entry level, or fewer than five qualified persons, if the position to be filled is other than entry level, the director shall provide the next available name (or names) in order of eligibility up to the number of names originally provided.
- E. If no additional names can then be provided, the appointing authority may (1) appoint from the list; (2) elect to postpone filling the vacancy until a new eligible list can be certified; or (3) fill the position by a temporary or provisional appointment.
- F. The city shall provide a minimum of five (5) days written notice to the participants in a promotional opportunity of the date, time and place of the

Civil Service Commission hearing where the results of the testing will be submitted for certification.

6-3 Appointment

After interview and any investigation determined necessary the appointing authority may make appointments only from among those certified and shall immediately notify the commission of the person or persons appointed. The appointing authority may reinstate a former employee consistent with Section 6-6 of these rules, or may select any person in the top five on the certified eligible list for appointment if the position is other than entry level, or in the top ten if the position is entry level. If an eligible fails to appear for interview or duty at the time and place directed the eligible shall be deemed to have declined the appointment.

6-4 Temporary Appointments

A temporary appointment to a temporary position for a term of not more than twelve months may be made of a person meeting the employment standards for the class. Employees appointed to temporary positions are exempt from regular appointment as provided in Section 7-4 of these rules.

6-5 Emergency Appointments

To meet the immediate requirements of any emergency condition which threatens public life or property, such as extraordinary fire, flood, earthquake or enemy attack the appointing authority or his or her authorized representative may employ such persons as may be needed for the duration of the emergency without regard to these rules affecting appointments. As soon as emergency conditions permit, such appointments shall be reported to the commission.

6.6 Reinstatement

When it is deemed to be for the good of the service the appointing authority may, upon approval of the Civil Service Commission, reinstate a former employee to the same or lesser class, position or rank within two years from the date of termination provided there is a vacancy and that former employee is qualified for the position and was not terminated for cause. If a former employee is reinstated to a lesser class, position or rank the appointing authority may thereafter, upon the approval of the Civil Service Commission, reinstate the employee to the same class, position or rank held at the time of termination within two years from the date of termination and provided there is a vacancy. The appointing authority may consider any individual approved for reinstatement in addition to the names provided by the director from an active eligibility list for a position for which there is a vacancy.

## CHAPTER 7

### INTRODUCTORY PERIOD

#### 7-1 Objective

The introductory or working test period shall be regarded as an integral part of the examination process and shall be utilized or closely observing the employee's work, for securing the most effective adjustment of a new employee to his or her position and for rejecting any employee whose performance does not meet the required work standards.

#### 7-2 Introductory Period for Original Appointments

All original appointments and reinstatements shall be tentative and subject to an introductory period of six months from the date of hire, except in the case of police officers whose six-month introductory period will begin the date of Peace Officer Standards and Training (POST) certification.

The appointing authority may grant one extension to this original introductory period. Such extension shall not exceed an additional six months. The department head in charge of each introductory employee shall file with the director progress reports at specified regular intervals throughout the introductory period but at least after the first two months and again after the first five months of the introductory period.

If at any time during the introductory period the services of the probationer are unsatisfactory to the appointing authority, the director shall be notified immediately and the appointing authority shall forward a statement in writing to the introductory employee notifying him or her of the date of termination.

If an unsatisfactory report by the appointing authority is not filed by the end of the introductory period, the employee will be deemed to be satisfactory and his or her employment continued.

The appointing authority shall notify the commission of any extension to the original introductory period at the next scheduled meeting of the commission after such extension.

#### 7-3 Release of Introductory Employee

During the introductory period an employee may be released at any time by the appointing authority if, in the opinion of the appointing authority, the introductory employee's work performance indicates that he or she is unable or unwilling to perform the duties of the position satisfactorily or that the introductory employee's habits and dependability do not merit continuation in the service. Written notice

of release shall be given the introductory employee and a copy filed with the director.

7-4 Regular Appointment Following Introductory Period

Original employees successfully completing the initial introductory period and subsequently receiving regular appointment shall at the time be termed classified employees and receive regular status as provided in these rules.

7-5 Introductory Period on Promotion or Transfer

All promotional and transfer appointments shall be tentative and subject to an introductory period of six months or such longer time not to exceed an additional six months as extended by the appointing authority. Any employee in the classified service appointed for promotion who does not satisfactorily complete the introductory period shall revert back to his or her pre-promotional status and shall be immediately reinstated in his or her former position provided a vacancy exists. Any employee in the classified service transferred to another department who does not satisfactorily complete the introductory period shall immediately revert to his or her previous position provided a vacancy exists. If no vacancy exists in the pre-promotional or pre-transfer position the employee who does not successfully complete the introductory period on promotion or transfer may apply for reinstatement under these rules. Promoted or transferred employees in an introductory period, or who have not successfully completed the introductory period, shall be considered regular employees for purposes of appeal rights under these Rules.

## CHAPTER 8

### SUSPENSION, HEARING & APPEALS

#### 8-1 Suspension Pending Investigation

An employee may be suspended by the police chief or fire chief, as appropriate, pending the investigation or hearing of any charges against such employee. The suspension shall be with pay unless substantial grounds for suspension without pay are justified.

#### 8-2 Pre-Determination Hearing

- A. Entitlement: Regular classified employees are entitled to a hearing before the chief of the department prior to dismissal, suspension of more than three days (or twenty-four working hours for fire personnel), or demotion.
- B. Recommendation from Supervisor: Upon recommendation from the supervisor of an employee to the chief of the department for disciplinary action, the chief shall establish an informal hearing at which time the employee may appear, with or without representation, and respond either in writing or orally concerning the proposed action.
- C. Hearing Established: Upon recommendation from the supervisor of an employee to the chief of the department for disciplinary action, the chief shall establish an informal hearing at which time the employee may appear with or without representation and respond either in writing or orally concerning the proposed action.
- D. Notice of Hearing: The employee shall be given notice either by certified mail or by personal delivery at least five (5) working days prior to the hearing of the date, time and place of the hearing. Said notice shall also contain a statement of the most severe disciplinary action being considered and a statement setting forth the facts or circumstances leading to the proposed adverse action.
- E. Decision of the Chief of the Department: The chief of the department shall reach a decision within fourteen (14) calendar days from the final date of the hearing.
- F. Notice of Decision and Appeal Time: The employee shall be given notice by certified mail or personal delivery of the decision. If the decision is adverse the employee has five (5) working days from the date he or she receives the decision to submit a notice of appeal to the Civil Service Commission in accordance with these rules.

- G. Continuance and Investigation: If the chief of the department determines additional evidence is needed the chief may continue the hearing and may further investigate or appoint an individual to further investigate. The hearing shall not be continued for more than five (5) working days unless agreed upon by both parties.
- H. Type of Hearing: The hearing shall be informal and shall be conducted in such a manner as to reasonably determine the facts and circumstances relating to the proposed disciplinary action. Either the city or the employee may call witnesses and may record the hearing.

### 8-3 Appeal Rights

Any regular employee in the classified service who is removed from office or employment for misconduct, incompetency, failure to perform his duties or failure to observe properly the rules of the department or who is adversely affected by the administration of these rules or other city policies and rules may, within fourteen (14) calendar days after notice of such action, file a written request for review of the adverse action with the next higher level of supervision in the city administrative structure, up to the chief of the department. Responses shall be made to an employee's request for review within fourteen (14) calendar days. If a response is not received by the employee within that time period the employee may request a review at the next higher level up to the chief of the department. Pursuant to Utah Code Ann. § 10-3-1012 (2), and successor provisions, the commission has jurisdiction to hear appeals in the case of discharge or suspension of more than three days (or twenty-four working hours for fire personnel). Appeals to the Civil Service Commission shall be within five (5) working days of such action implemented by the chief of the department. Further appeal of matters outside the jurisdiction of the commission alleged by regular classified employees shall be referred to the city to be processed pursuant to its specified grievance procedure.

## CHAPTER 9

### REVIEW BY FIRE CHIEF OR POLICE CHIEF

#### 9-1 Time for Review

Any regular employee in the classified civil service who is adversely affected by the administration of these rules or other administrative actions made pursuant to these rules may, within fourteen (14) calendar days after notice of such action, file with the appropriate fire or police chief a written request for review provided the affected individual has previously exhausted all applicable appeals as provided in these rules.

#### 9-2 Investigation

Upon filing the request for review if it shall appear therefrom that it was filed within the time prescribed by these rules, the appropriate fire or police chief shall personally, by the director or by other authorized agent, investigate any allegations of fact set forth by the aggrieved person or persons.

#### 9-3 Hearing

The investigation may include the holding of a hearing after reasonable notice by the appropriate fire or police chief or his or her designated impartial representative of all persons concerned as designated.

#### 9-4 Type of Hearing

Said investigation and hearing shall be informal and shall be conducted in such a manner as to reasonably determine the facts and circumstances relating to the action under review. The appropriate fire or police chief or his or her designated impartial representative shall control and direct the conduct thereof.

#### 9-5 Chief of Department Findings and Order

Within thirty (30) calendar days of the date of filing the request for review the chief of the department shall make findings of fact and issue such order as he or she shall deem proper. The findings and order shall be filed with the director and a copy served on the employee or employees. The failure of the chief to file his or her findings and order within the thirty day period shall be tantamount to a sustaining action from which the request for review was taken and permit appeal as provided for in Section 8-3 of these rules.

## CHAPTER 10

### APPEALS TO THE CIVIL SERVICE COMMISSION

#### 10-1 Employee Appeals – When Authorized

Any regular classified employee may appeal to the commission from any order of the appointing authority by which the employee is discharged or suspended for a period of more than three days (or twenty-four working hours for fire personnel).

#### 10-2 How Taken – Time

Appeals as provided in the next preceding section shall be taken by filing with the secretary of the commission as notice of appeal on the designated form for such appeal. Such notice of appeal must be served and filed within five (5) working days after service upon the appellant of the order appealed from and if not served and filed within the time specified the appeal shall be dismissed.

#### 10-3 Notice of Appeal

The notice of appeal must be in writing and on the form provided for, such addressed to the Civil Service Commission. A copy of the appointing authority's findings and order may be attached thereto. The notice shall show wherein it is contended the order adversely affects the appellant and wherein it is contended the findings and order are erroneous. It must be signed by the appellant.

#### 10-4 Powers of Commission

Subject to state law and for good cause shown upon written petition duly filed and served on the adverse party or on its own motion the commission may make such orders as it deems necessary, extending the time limited by these rules within which any party shall be required to act, except the time to appeal and may require or permit the setting of a hearing, the taking of depositions, the preservation of evidence and the subpoenaing of witnesses and such other matters or things as it deems necessary or desirable for the best interest of the parties, the public and for the full hearing and determination of the matter. It may hold a pre-hearing conference to frame the issues to be tried and to explore the possibility of obtaining admissions of fact from either party and if such conference is held it shall enter an order stating the issues and any admissions or stipulations of fact. In framing the issues it shall not be bound by the issues considered by the appointing authority in his or her findings and order but may, in the interest of justice and when it deems such action to be for the good for the service, consider any relevant issues. The order may be amended from time to time on such terms as may be just. All matters before the commission shall be decided by the preponderance of the evidence.

10-5 Hearing – Procedure

The hearing of said matter shall be at a time, place and day fixed by the commission before at least a quorum of the commission. The parties may appear in person and may be represented by counsel. The appellant is entitled to a public hearing.

The procedure at the hearing shall require that the appellant first establish the grounds on which he or she relies to disprove the action taken by the appointing authority which he or she considers creates the adverse effects. Following the appellant's case the city may enter its rebuttal evidence.

The commission shall provide for a fair hearing and have sufficient reliable evidence upon which to justify any decision.

The right of a classified employee to appeal adverse administrative action subject to the jurisdiction of the Civil Service Commission is undisputed and the city shall not attempt to block a procedurally correct appeal.

10-6 Reporting of or Recording of Proceedings

Every hearing shall be recorded either by certified shorthand reporter or by a mechanical or electronic recording device as the commission may determine. The recording of the transcript shall be preserved for five (5) years and shall not be opened for inspection except by order of the commission or of a court of competent jurisdiction.

10-7 Evidence

At all hearings the commission shall determine the admissibility of evidence and shall use as near as it deems practicable the rules of evidence following in the courts of Utah provided, however hearsay evidence is admissible and its weight and sufficiency shall be determined by the commission.

10-8 Swearing of Witnesses

Every witness at a hearing before the commission shall first be sworn to testify truthfully as provided in Title 78, Chapter 24, Sections 16 to 19 inclusive of the Utah Code Annotated, 1953. The oath may be administered by a member of the commission or by the secretary of the commission.

10-9 Decision – Scope of Order of Review

The commission shall fully hear and determine matters appealed to it, shall determine the factual questions involved, and shall affirm or reverse the decision of the appointing authority, as consistent with law. The findings and decision of

the Civil Service Commission upon such hearing shall be to the chief of the department and shall be final and shall forthwith be enforced and followed by the chief of the department.

Any decision taken under advisement shall be later announced at a duly noticed meeting of the commission. Any decisions of the commission assigned to be drafted by counsel for the prevailing party should be represented to all parties of record for review prior to signing by the commission.

#### 10-10 Grievances Outside Jurisdiction of Commission

Any grievances outside the jurisdiction of the commission alleged by classified employees shall be referred to the city to be processed pursuant to its specified grievance procedure.

## CHAPTER 11

### ADOPTION AND AMENDMENT OF RULES

#### 11-1 Procedure

Amendments to these rules may be recommended by the Mayor, the CAO, the director, any regular classified employee, personnel office, legal department or by any member of the commission. Any recommendation to amend these rules shall be filed with the office of the secretary of the commission. All recommendations to amend these rules shall be placed on the agenda of the next regular commission meeting allowing at least fifteen (15) days prior public notice.

#### 11-2 Public Hearing and Notice

Prior to adopting any amendments to these rules, the commission shall hold a public hearing thereon. Notice of the proposed amendments shall be provided by posting such notice on an employee bulletin board in the fire and police departments and making available to any regular classified employees a copy of the proposed amendment(s). Additional reasonable methods of notice calculated to provide reasonable notice to classified employees may also be used.

#### 11-3 Adoption

After a public hearing hereon the commission, by majority vote, may approve or reject recommendations on these rules in whole or in part or may modify and approve them as so modified. Amendments shall become effective when approved by the commission. Adopting of the original set of rules shall follow the notice and hearing requirements therein.



# City Council Meeting COUNCIL STAFF REVIEW

## VACATION OF 1050 WEST BETWEEN 200 NORTH AND 400 NORTH WITHIN BUSINESS DEPOT OGDEN (BDO)

### COUNCIL DETERMINATION:

Set/not Set Public Hearing for November 15, 2016

### PLANNING COMMISSION

RECOMMENDATION: Approval of the vacation (5-0)

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### *Executive Summary*

The petitioner, Blake Wahlen, Manager at BDO, has submitted a petition to vacate approximately two blocks of 1050 West in BDO. The petition is part of a series of amendments needed to vacate the street including a BDO street master plan amendment, the street vacation itself, and a subdivision plat amendment. Mr. Wahlen had indicated that the removal of 1050 West as a public street is needed to better accommodate the maneuvering space for trucks and to accommodate future building development. The physical road does not exist in this area other than a small portion of the intersections of 200 North and 400 North.

### *Background*

The petitioner, Blake Wahlen, has submitted a petition to amend the Business Depot Ogden (BDO) streets master plan by removing 1050 West as a public street and to vacate 1050 West between 200 North and 400 North. The street vacation is being requested to eliminate the public right-of-way along this section of 1050 West to better accommodate future building development and to allow proper maneuverability in the area. The elimination of the right-of-way will allow more flexibility when that area of BDO is developed. At this point, only a small portion of the right-of-way is built at the intersections; no physical roadway exists between the intersections.

The Council may vacate a portion or all of a dedicated right-of-way if there is good cause to do so and if neither the public interest nor any person will be materially injured. In this case, the roadway does not currently exist and public circulation of traffic within BDO is handled by other larger, collector-type roads. The Planning Commission has found that good cause exists for the vacation in that the vacation will allow development of the area and will eliminate conflicts related to a public right-of-way and the maneuverability of trucks while loading and unloading. In addition, the Planning Commission had found that neither the public nor any person will be injured with the vacation as public



# City Council Meeting COUNCIL STAFF REVIEW

circulation within BDO is already being handled by other existing and more appropriately designed roads.

The street vacation is the second step in a three-part process to eliminate the right-of-way. The first is an amendment to the BDO street master plan. This is being addressed in a separate action by the Council. The second is the vacation itself. The vacation should not be approved if the master plan is not amendment as there would be a conflict with the master plan and actual right-of-way. The last step in the process is to amend the subdivision plat. This is an administration function and will not be reviewed and approved by the Council.

It should be noted that the BDO Street Master Plan shows this road as 1070 West while the plat shows the road as 1050 West. For the purpose of formal action, the name of 1050 West is being used since 1050 West is the legally recorded name of the street.

**Current Proposal** The current proposal is to vacate 1050 West from 200 North to 400 North. The vacation would eliminate the right-of-way as a public street but would retain any utility easement within the right-of-way. The current application only applies to the section of 1050 West between 200 North and 400 North while the accompanying BDO street master plan amendment is for the area between 200 North and 600 North. Mr. Wahlen's current application only applies to the area between 200 North and 400 North as this is the current focus of development.

### **Planning Commission**

The proposal was reviewed by the Planning Commission at the October 5, 2016 meeting. The Planning Commission forwarded a recommendation of approval to the Council with a 5-0 vote with the finding that the good cause exists for the vacation and that neither the public interest nor any person will be materially injured by the vacation.

### **Public Comment**

No comment was offered at the meeting.

### **Attachments**

1. Transmittal
2. Ordinance 2016-57
3. Planning Commission Report
4. Petition 2016-10

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<b>Memos Prepared By:</b>	<b>Administrative Contact:</b>	<b>Greg Montgomery, 629-8931</b>
	<b>Council Staff</b>	<b>Glenn Symes, 629-8164</b>

**OGDEN CITY COUNCIL TRANSMITTAL**

**RECEIVED**

**OCT 18 2016**

**OGDEN CITY  
COUNCIL OFFICE**

**DATE:** October 7, 2016  
**TO:** Ogden City Council  
**THRU:** Mark Johnson, CAO  
**FROM:** Tom Christopulos, CED Director  
**RE:** Petition #2016-10 to vacate 1050 West from 200 North to 400 North.

**STAFF CONTACT:** Greg Montgomery, Planning Manager

**REQUESTED TIMELINE:** November 15, 2016

**RECOMMENDATION:** Approval to vacate 1050 West from 200 North to 400 North subject to a common access easement being recorded for the building to the west and new development to the east.

**DOCUMENTS:** Ordinance, Planning Staff report.

**DISCUSSION:**

Staff explained that this is part of a three step process. The first was to amend the street master plan regarding 1050 West. The Planning Commission recommendation to amend the plan allows the next consideration and that is vacating the platted street between 200 North and 400 North.

Mr. Wahlen explained the need to vacate the street in order to place a new building on the site. The vacation would allow the new site and the existing development to the west to function and share access and maneuvering areas; something a dedicated street would not allow. This vacation would not alter existing utilities and they would establish easements for the utilities. There would also be a shared access easement for the property to the east and the west.

Staff explained that no uses would lose access to their buildings with the proposed street vacation and the subsequent shared access easement. The physical road does not exist except at the intersections of 200 and 400 North. Additionally, the proposal would meet the provisions of the revised street master plan and the good cause for the action is based on better land utilization at BDO.

**PLANNING COMMISSION ACTION**

The Planning Commission reviewed this item on October 5, 2016. A motion was made based on the findings that good cause exists for the vacation, neither the public interest nor any person will be materially injured by the vacation, and the proposed vacation meets the intent of the provisions in the General Plan to recommend approval of vacation of 1050 West between 200 North and 400 North subject to revised subdivision plat showing a shared access easement between the two properties on the east and west side of the vacation.

PLANNING COMMISSIONERS VOTE

	<u>Yes</u>	<u>No</u>
Graf.....	X	
Herman.....	X	
Holman.....	X	
Schade.....	X	
Blaisdale.....	X	

**CONCERNS OF CITIZENS:**

None expressed

**ORDINANCE NO. 2016-57**

**AN ORDINANCE OF OGDEN CITY, UTAH VACATING A PORTION OF 1050 WEST FROM 200 NORTH TO 400 NORTH; QUIT CLAIMING THE PROPERTY WITHIN THE VACATED PORTION OF SAID STREET TO THE ABUTTING PROPERTY OWNERS AS THEIR INTERESTS MAY APPEAR; RESERVING A RIGHT-OF-WAY FOR ALL UTILITIES THAT MAY NOW EXIST IN SAID PORTION OF SUCH STREET; DIRECTING THE CITY RECORDER TO RECORD THIS ORDINANCE IN THE OFFICE OF THE COUNTY RECORDER; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.**

**WHEREAS**, there has been filed with the Council of Ogden City a petition requesting that a portion of 1050 West from 200 North to 400 North be vacated;

**WHEREAS**, the petition was reviewed by the Ogden City Planning Commission, which recommended that the petition be granted with certain conditions;

**WHEREAS**, after notice and public hearing as required by law, the City Council finds that good cause exists for such vacation and that neither the public interest nor any person will be materially injured if such petition is granted.

**NOW, THEREFORE, the Council of Ogden City hereby ordains:**

**SECTION 1.** That portion of 1050 West from 200 North to 400 North as said street has heretofore been dedicated to Ogden City and the use of the public, is hereby closed to the public pursuant to law and the platting and/or dedication thereof is hereby vacated; reserving, however, an easement for any utilities presently existing in said portion of such street, which easements may be terminated if such utilities are relocated or removed. The portion of 1050 West hereby vacated and closed is generally described as from 200 North to 400 North and more particularly described as follows:

A PART OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 6 NORTH, RANGE 1 WEST, OGDEN CITY, WEBER COUNTY, UTAH; BASIS OF BEARING IS BETWEEN THE INTERSECTION MONUMENT AT 1200 WEST STREET AND THE 12<sup>TH</sup> STREET MONUMENT, HAVING A BEARING OF SOUTH 89°58'51" EAST 3665.01 FEET;

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF 200 NORTH STREET, MORE PARTICULARLY DESCRIBED AS

BEGINNING AT THE INTERSECTION MONUMENT AT 1200 WEST AND 12<sup>TH</sup> STREET RUNNING THENCE SOUTH 89°58'51" EAST 1369.38 FEET AND NORTH 00°01'09" EAST 6741.30 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 85°20'52" WEST 194.87 FEET, THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 175.00 FEET AND AN ARC LENGTH OF 42.32 FEET (CHORD BEARING OF NORTH 78°15'16" EAST 42.22 FEET), THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 63.00 FEET AND AN ARC LENGTH OF 32.10 FEET (CHORD BEARING OF NORTH 56°43'40" EAST 31.76 FEET), THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 39.10 FEET AND AN ARC LENGTH OF 19.69 FEET (CHORD BEARING OF NORTH 27°42'23" EAST 19.48 FEET) TO A POINT OF TANGENCY, THENCE NORTH 04°48'34" WEST 1364.80 FEET, THENCE NORTH 10°34'46" WEST 31.60 FEET TO A CURVE TO THE LEFT HAVING A RADIUS OF 599.00 FEET AND AN ARC LENGTH OF 69.27 FEET (CHORD BEARING IS NORTH 13°53'32" WEST 69.23 FEET), THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 49.00 FEET AND AN ARC LENGTH OF 31.59 FEET (CHORD BEARING IS NORTH 35°40'29" WEST 31.05 FEET) TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 400 NORTH STREET, THENCE NORTH 85°20'53" EAST 116.41 FEET ALONG SAID RIGHT OF WAY LINE, THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 79.05 FEET AND AN ARC LENGTH OF 19.54 FEET (CHORD BEARING OF SOUTH 57°35'15" WEST 19.49 FEET), THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 43.60 FEET AND AN ARC LENGTH OF 31.79 FEET (CHORD BEARING OF SOUTH 29°37'13" WEST 31.09 FEET), THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 137.30 FEET AND AN ARC LENGTH OF 32.45 FEET (CHORD BEARING OF SOUTH 01°57'43" WEST 32.38 FEET) TO A POINT OF TANGENCY, THENCE SOUTH 04°48'34" EAST 1387.43 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 99.63 FEET AND AN ARC LENGTH OF 23.88 FEET (CHORD BEARING OF SOUTH 11°40'38" EAST 23.83 FEET), THENCE TO A CURVE TO THE LEFT, HAVING A RADIUS OF 65.85 FEET AND AN ARC LENGTH OF 87.66 FEET (CHORD BEARING OF SOUTH 56°40'51" EAST 81.33 FEET) TO A POINT ON THE NORTH RIGHT OF WAY LINE OF 200 NORTH STREET AND THE POINT OF BEGINNING.

**SECTION 2.** Ogden City hereby relinquishes and quit claims to the abutting property owners, as their interests may appear, all of its right, title and interest in and to the land within said portions of 1050 West hereby closed and vacated; provided, however, that said vacation is subject to all utilities that may now exist in said vacated portions, including, but not limited to water mains, sanitary sewer mains, storm sewer lines, gas lines, electric lines, telephone lines and cable lines, said easement to provide full right of ingress and egress for maintenance, repairs or replacement of

any and all such utility lines until such time as any existing utilities are relocated or removed.

**SECTION 3.** The City Recorder of Ogden City is authorized and directed to cause a copy of this ordinance to be recorded in the office of the Weber County Recorder.

**SECTION 4. Effective date.** This ordinance shall be effective immediately upon posting after final passage.

**PASSED, ADOPTED AND ORDERED POSTED** by the Council

of Ogden City, Utah this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CHAIR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

**TRANSMITTED TO THE MAYOR ON:** \_\_\_\_\_

**MAYOR'S ACTION:**  Approved  Vetoed

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY RECORDER

POSTED DATE: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM: MAJ 10/17/16  
Legal Date



**OGDEN CITY PLANNING COMMISSION**  
**October 5, 2016 AGENDA ITEM- O**

Report by Greg Montgomery

**Agenda Name: Petition #2016-10 to vacate 1050 West from 200 North to 400 North**

**Petitioner/ Developer:** Blake Wahlen- General Manager Business Depot Ogden  
1150 South Depot Drive, Suite 100  
Ogden, Utah 84404

**Petitioner/ Developer's requested action:** Vacation of 1050 West from 200 North to 400 North as a public street

Planning Staff's Recommended Action

Approval of vacation of the 1050 West from 200 North to 400 North subject to the revised subdivision plat establishing a mutual access easement for the existing building to the west and new building to the east on 1050 West.

Planning Commission's determination for action

1. The effective use of the land in this area is / *is not* good cause for the vacation.
2. The vacation *does* / does not materially injure the public interest nor any person.
3. The proposed vacation meets / *does not meet* the intent of the provisions in the General Plan.

Past History

September 3, 2014- Ogden Business Depot Plat 18 was approved which dedicated a 47.71-foot-wide piece of property for 1050 West between 200 North and 400 North to be used as a public street.

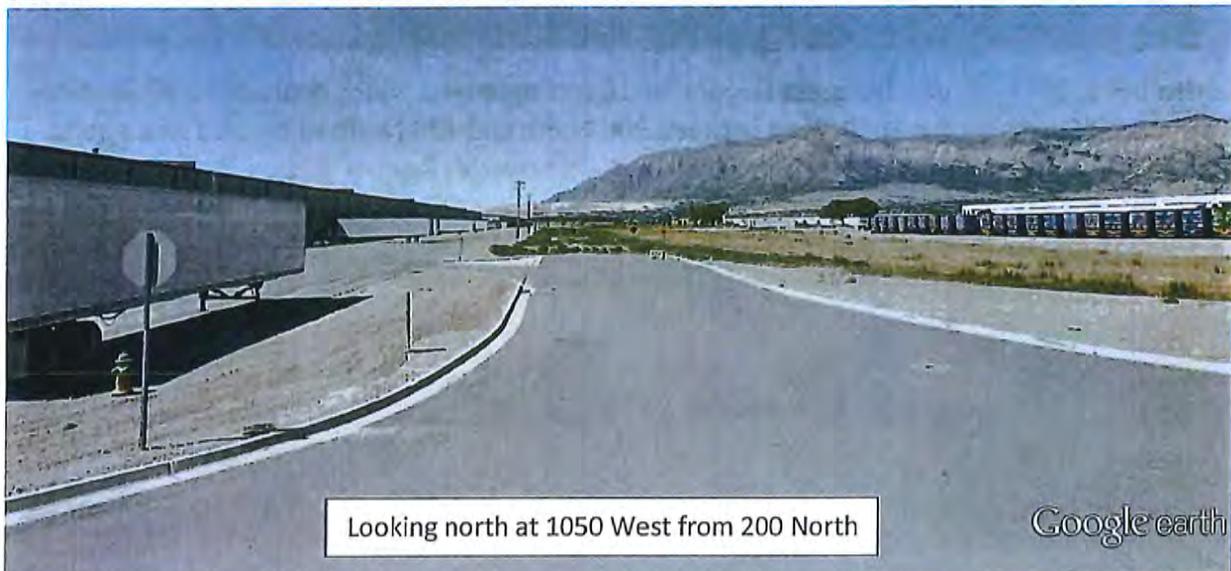
Vicinity Map



### Description of request

This is the second part of a three-part consideration for this area of BDO between 200 North and 400 North. The first part is an amendment to the street master plan. If the plan is not amended, then it would be hard to determine that this vacation was consistent with the general plan. If the street is not vacated, then it would be difficult to approve the proposed amended subdivision of plat 18 as submitted.

1050 West is a dedicated 47.71-foot-wide right of way that runs approximately 1400 feet in length. Each end of the street has been improved where it intersects into another public street. The overall street length however has not been improved. The request to vacate is based on the need to facilitate new development to the east and the restrictions of the public street limiting truck maneuvering into and out of loading docks creates a problem if this is retained as a public street.



## What Planning Commission reviews

The ordinance requires that the Planning Commission review street vacations to ensure that good cause exists for the vacation, neither the public interest nor any person will be materially injured by the vacation, and the proposed vacation meets the intent of the provisions in the General Plan.

Once the Planning Commission makes a recommendation of action for the proposed street vacation the City Council will then review the Planning Commission's recommendation and determine the final action for the proposed street vacation.

## Factors for consideration of action

### **1. Demonstration of good cause for the vacation**

The main reason for vacating 1050 West is to be able to allow development to occur on the property that is east of the road. The property has an angled property line along its east boundary. Being able to utilize the limited land to the fullest extent is an important objective of BDO. The street vacation will allow better utilization of the land and will not limit the general public's ability to circulate around the complex. Instead it will further define those areas where the public should stay away from because of constant truck maneuvering. It also stills allows the lots to face dedicated streets with 200 North and 400 North.

### **2. Public interest or any person will not be materially injured by the vacation**

While the street is proposed to be vacated as a public street, the subdivision which will be considered later will create an access easement the existing building to the west and the new building to the east can use to access all portions of their property. The adjacent properties will not be injured with this easement in place. The general public will also not be injured as there is still provided a main circulation system to get to and through developments in BDO.

### **3. Provisions of the General Plan**

If the proposed amendment to the street master plan is approved, then this request would also be consistent with that plan.

## Attachments

1. Petition
2. Business Depot Plat 18



PART OF THE W.1/2, OF SECTION 12, & THE NE.1/4, OF SECTION 13, T.6N., R.2W., AND A PART OF THE W.1/2, OF SECTION 7, & THE W.1/2, OF SECTION 18, T.6N., R.1W., S.L.B. & M.

### BUSINESS DEPOT OGDEN PLAT 18

TAXING UNIT: 359

IN OGDEN CITY  
SCALE 1" = 500'

