

## Title 2 - ADMINISTRATION AND PERSONNEL

### Chapter 2.04 - CITY COUNCIL

#### 2.04.010 - Eligibility—Number of members.

The Millcreek City Council shall consist of five members, the Mayor is elected at-large and 4 Councilmen, elected by district, the Mayor shall have been an elector of the City for at least one year immediately preceding the general election, and elected by the qualified electors of the City at large and each of the 4 council district members shall have been an elector of the City and of the district from which elected for at least one year immediately preceding the general election, and elected by the qualified electors of the district in which the Council member represents.

#### 2.04.020 - Term of office.

City Council members shall be elected at the general election next preceding the expiration of the term of office of incumbents, the four council district members shall be elected for four year terms; provided that the terms of office of the initial group of council members elected in November, 2016, shall be modified in order to provide staggered terms as set out in the plan. Each shall hold office for the term for which elected and until a successor is elected and has qualified.

#### 2.04.030 - Vacancy filling.

When a vacancy occurs in the Council, through ineligibility, resignation or death of an incumbent or of an officer-elect before qualifying, or refusal to act, or for any other reason, the vacancy shall be filled as provided in State Statute.

#### 2.04.040 - Powers and duties.

The Council and Mayor shall be the legislative body of City government, and may exercise those powers and authorities and be bound by those duties and responsibilities set out in State Statute and in the plan. The Council's legislative authority includes, but is not limited to, the adoption of a City budget and the levying of taxes, setting of fees and raising of other public revenues. The term "Council" shall include the Mayor, unless specifically separated by State Law for certain responsibilities.

#### 2.04.050 – Mayor acts as the chair of the Council.

The mayor in a municipality operating under a five-member council form of municipal government:

- (a) is a regular and voting member of the council; (b) is the chair of the council and presides at all council meetings; (c) exercises ceremonial functions for the municipality; (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers and duties described in Section 10-3b-104.

#### 2.04.051 - Appointment of staff—Administrative matters.

- A. In the absence of the Mayor, the Council shall elect a mayor pro-tempore to assume the duties of the Mayor for the meeting..
- B. The Council may make such staff appointments as are necessary for the proper conduct of its business.
- C. The Mayor, or Mayor pro-tempore, as the case may be, shall be responsible for the conduct of all meetings, preparation of the agenda for all meetings, and meeting the needs of the Council between meetings, including the providing of assistance and the gathering of information for the Council and the performance of duties assigned by the Council or by ordinance, the plan or by law.

- D. Any member of the Council may administer oaths to any person when necessary in the performance of official duties.

#### 2.04.060 - Clerk—Minutes.

- A. The Millcreek City Clerk, or designee, shall serve as clerk to the City Council at all meetings.
- B. The Millcreek City Clerk, or designee, shall provide copies of the minutes of all meetings of the Council to Council members in a manner and within the times as established by the Council and agreed upon by the Clerk.
- C. In accordance with State Statute, the books, records and accounts of the City Council must be maintained at the office of the Clerk and open at all times during usual business hours for public inspection.
- D. The records and minutes of the City Council must be signed by the chair and the clerk.

#### 2.04.070 - Council meetings.

- A. All meetings of the Council must be public except as provided in this chapter and by State Law. Official action may be taken by the Council only in open public meetings unless otherwise permitted by State Statute.
- B. All regular meetings of the City Council shall be conducted in Millcreek City. Special, committee, closed and emergency meetings may be held at other places provided that the proper notice is given of the time and place.
- C. The Council shall conduct its business in accordance with Chapter 4 of Title 52, Utah Code Annotated, 1953, as amended, as it now exists or as it may hereinafter be amended, with respect to open and public meetings.
- D. The Council conducts the following types of meetings:
  - 1. Regular meetings
  - 2. Special meetings
  - 3. Closed meetings
  - 4. Work meetings
  - 5.. Emergency meetings
  - 6. Veto-override meetings
  - 7. Other Meetings.
- E. The Council shall give public written notice at least once each year of its annual meeting schedule for regular meetings. The public notice shall specify the date, time and place of such meetings.
- F. The Council, by majority vote of the members present, may direct the removal of any person who willfully disrupts a Council meeting to the extent that orderly conduct is seriously compromised.
- G. The attorney and auditor or their designees may attend and assist the Council at all meetings, but shall attend and assist the Council at all meetings when requested.

#### 2.04.075 - Work meetings.

- A. The Council may conduct a regular work session, at the hour and place designated by the Council.
- B. Work meetings shall be scheduled or cancelled as the public business requires and shall consist of discussion, review, testimony, requests and information from City officers and employees, presentations by the public, review of regular meeting agendas, preparation for regular meetings, and such other matters and activities as may be necessary or scheduled by the Council chair.

- C. Work meetings shall be open to the public in accordance with State Statute and public notice shall be given of all meetings in the same manner as required for regular meetings. The public may or may not be invited to speak, as the Council determines a need.
- D. Official actions, including Council votes, may be undertaken in work meetings.
- E. A quorum of Council members is necessary to conduct work meetings.

#### 2.04.080 - Regular meetings.

- A. Regular meetings shall be held at least weekly on Tuesdays in Millcreek City at the City Hall; provided, regular meetings may be cancelled as provided in ordinance or by the action of the Council at a previous meeting.
- B. If approved by Council vote, the Council may hold occasional meetings outside of City Hall as the public business requires.
- C. Public notice of each meeting shall be given in accordance with State Law.
- D. Unless determined otherwise by a majority vote of Council members present, the order of business for regular meetings shall be as follows:
  - 1. Call to order;
  - 2. Invocation, reading or thought and pledge of allegiance;
  - 3. Citizen public input for items not on the agenda;
  - 4. Report of City Mayor;
  - 5. Council members' reports;
  - 6. Department head reports;
  - 7. Pending business, including resolutions and ordinances, contracts, tax matters, public notices and hearings, and such other matters and business as may be necessary;
  - 8. Walk-on matters and other business;
  - 9. Adjourn.

#### 2.04.090 - Special meetings.

- A. If, at any time, the business of the City Council requires a special meeting of the Council, such meeting may be ordered by a majority of the Council or by the Mayor.
- B. The order setting a special meeting must be in writing and signed by the Council members or Mayor calling such meeting, be entered in the minutes of the Council and state the purposes and proposed agenda for the meeting.
- C. Except in emergency situations, at least twenty-four hours' written notice of any special meeting must be given to Council members and the Mayor and must be published as directed in Section 52-4-6, Utah Code Ann. (1953, as amended).
- D. No business may be transacted at such special meetings except as specified in the order setting the special meeting.
- E. Special meetings may be conducted at places other than City Hall: provided however, that proper notice shall be given of the time and place of the special meeting in accordance with law.

#### 2.04.100 - Closed meetings.

- A. A closed meeting of the Council may be held upon the affirmative vote of two-thirds of the members present at an open meeting for which notice has been given in accordance with State Statute; provided, however, that a quorum must be present.

- B. No closed meeting is allowed except as to matters exempted from open meetings under Section 52-4-3. Utah Code Ann. (1953, as amended).
- C. No official action may be taken at a closed meeting.
- D. The reason or reasons for holding a closed meeting and the vote thereon shall be entered in the minutes of the meeting.

#### 2.04.110 - Emergency meetings.

When, because of unforeseen circumstances, it is necessary for the Council to hold an emergency meeting to consider matters of an emergency or urgent nature, the normal notice requirements for a meeting may be disregarded and the best notice practicable given to the Council members and the public. No such emergency meeting of the Council shall be held unless an attempt has been made to notify all council members and a majority of the Council votes in the affirmative to hold the meeting. Action may not be taken at an emergency meeting unless a quorum is present. A record shall be kept of the means utilized to contact the members and the number voting and names of the members voting to hold the meeting.

#### 2.04.120 - Veto-override meetings - Reserved.

#### 2.04.130 - Additional committees.

- A. The Council may establish additional committees as it deems appropriate and may convene committee meetings at any time for the purpose of study, discussion, investigation, formal hearings or inquiries, workshops, training, or presentations by or responses from citizens or other interested persons or groups.
- B. No official action may be taken in committee meetings other than the adoption of non-binding recommendations to the Council.
- C. Committee meetings shall be open to the public in accordance with State Statute and public notice shall be given of all committee meetings in the same manner as required for regular meetings.

#### 2.04.140 - Agenda.

- A. An agenda shall be prepared by the Mayor or his designee or the Mayor pro-tempore. The agenda shall be published as provided by State Statute at least twenty-four hours in advance of the meeting.
- B. Matters received from any two or more council members, other City appointed officials or the City Mayor shall be placed on the agenda. Requests for matters to be placed upon the agenda by persons other than Council members, appointed officials, or the City Mayor shall be placed on the agenda at the discretion of the Mayor.
- C. The Council, for its regular, special and committee meetings, shall announce and post its agenda and provide copies thereof to local news media, in accordance with the provisions of state law, at least twenty-four hours prior to the convening of the Council meeting. Written notice of the agenda and meeting shall be posted at the office of the City Council, at the City Mayor's office, at the regular meeting place of the Council and such other places as may be determined by the Council. In the event of an emergency meeting, public notice and notice to the news media shall be given as may be practical under the circumstances.
- D. The agenda may be changed by a majority vote of the Council, but no action may be taken on new matters introduced to the agenda unless twenty-four hours' notice has been duly given to the public or unless the matter is of an emergency nature, as approved by a separate majority vote of council members present.
- E. All agenda items pertaining to pending or proposed actions shall be considered as proposals for adoption. In the absence of a motion to adopt, postpone, or table pending or proposed actions, the chair shall, upon the conclusion of discussion on the matter, declare that the proposal fails adoption or, at the Mayor's discretion, declare the matter to be held over for a subsequent meeting.

#### 2.04.150 - Public hearings.

- A. Public hearings shall be deemed to include only those hearings specifically noticed and required to be conducted by the Council by State Statute or otherwise for the purposes of providing opportunities for the general public to comment upon and make inquiries or presentations with respect to specific proposals or matters under consideration by the Council including, but not limited to, planning and zoning, ordinances, budget hearings, hearings on the proposed issuance of bonds or debt, or other matters of significant public interest. The Council at its discretion may schedule public hearings for other matters under consideration.
- B. Public hearings may be held as part of a regular special, committee, emergency or other meeting of the City Council. The decision to conduct a public hearing shall be made by the Council at a regular, special or emergency meeting.
- C. Schedules for public hearings shall be announced by the chair and public notice shall be given in the manner required for any public meeting of the Council as required by law and this chapter. The notice shall include the specific subject matter of the public hearing as well as the time, date and place thereof.
- D. At the beginning of any public hearing, the Mayor may publicly state the rules of conduct for such public meetings including any time limits on speakers' presentations, any requirement of submitting materials in writing with sufficient copies for all council members and the clerk, and such other rules as may be reasonably necessary for the proper and expeditious conduct of the public hearing.
- E. Public hearings shall be opened upon the declaration of the Mayor in a public hearing and the Mayor shall state the specific purpose of that public hearing. Upon the conclusion of the public hearing and a motion duly made, seconded, and carried by a majority of the Council, the Mayor shall declare the public hearing concluded or continued to another date, if permitted by law. The Mayor shall state the conditions of any continuance.
- F. The Council may rehear any matter decided after a public hearing where an aggrieved person files a written request for rehearing that includes new evidence which the Council determines to justify reconsideration of its decisions. A request for rehearing shall be filed within ten days from the date of the original decision. If a request for rehearing is granted by the Council, the rehearing shall follow the same procedures as the original hearing. No rehearing shall be allowed on any matter where a rehearing would be contrary to State law.

#### 2.04.160 - Form of action.

The Council may take action in the form of ordinances, City-wide policies, resolutions, motions upon requests or memorials.

##### A. Ordinances.

- 1. The Council, except as expressly limited by statute, may adopt any ordinance to regulate, require, prohibit, govern, control or supervise any activities, business, conduct, or condition.
- 2. All ordinances must be in written form before a vote is taken.
- 3. Except for ordinances for the codification or general revision of City ordinances, no ordinance shall be passed containing more than one subject.
- 4. Any ordinance passed by the Council shall contain and be in substantially the following order and form:
  - a. Ordinance number and date;
  - b. A short title which indicates the nature of the subject matter of the ordinance;
  - c. A long title stating the need or reason for the ordinance and summarizing its contents;

- d. An ordaining clause which states "The Legislative Body of Millcreek City ordains as follows:";
    - e. The body or subject of the ordinance;
    - f. When applicable, a statement indicating the penalty for violation of the ordinance;
    - g. A statement indicating the effective date of the ordinance;
    - h. A signature line for the Mayor or Mayor Pro-tempore and for the City Clerk;
    - i. An ordinance history indicating the approval or disapproval of the Council members and the City Mayor and final disposition of the ordinance and an ordinance summary as required by statute.
  - 5. Except in exigent circumstances, or when directed by a majority of Council members present, all ordinances, including ordinances relating to planning and zoning matters enacted pursuant to Title 19, Millcreek City Code of Ordinances, 2017, shall be introduced in writing and read or described to the Council at least one meeting prior to the Council's consideration for adoption of the ordinance and may be referred to the legislative committee for recommendation. Copies of the proposed ordinance shall be provided to the news media and posted in public places, along with the agenda for the meeting at which the ordinance is to be considered.
  - 6. Upon adoption, each ordinance shall be signed as required within five days and submitted to the City Mayor for approval or veto.
- B. Resolutions.
- 1. Resolutions shall be considered and adopted in those matters required by law or otherwise and may be used for policy declarations and proposals not appropriately addressed by ordinance and may be used to exercise Council authority in matters of statements of policy and communication.
  - 2. Resolutions shall be in a form and contain sections substantially similar to that prescribed for ordinances.
  - 3. A resolution is not subject to veto by the City Mayor except as to line item budget veto, as provided in the plan.
  - 4. A Council's veto-override pursuant to Section 2.04.140 shall take the form of a resolution, but may be considered and adopted at the same meeting the override is proposed.
- C. Memorials.
- 1. Memorials shall be adopted in the form of resolutions or motions, as may be deemed appropriate, and shall be used as a statement of policy to respond to or commend persons or groups for notable activities which have been called to the attention of the Council. Memorials in the form of resolutions need not be approved as to form by the attorney.
  - 2. Memorials may be considered and adopted at the same meeting in which they have been proposed and in all events shall be recorded in the minutes.
- D. Policies, Procedures, Rules and Regulations.
- 1. Policies, procedures, rules and regulations shall be considered and adopted in those matters determined to be appropriate by the Council and not prohibited by Statute.
  - 2. Policies, procedures, rules and regulations shall be presented, considered and given notice in the same manner as prescribed for ordinances and shall be in such form as directed by the Council.
- E. All resolutions, policies, procedures, rules, regulations and ordinances shall be numbered, recorded and maintained in accordance with provisions of state law and applicable City ordinances.

#### 2.04.165 - Legal opinions and records.

- A. All resolutions, policies, procedures, rules, regulations and ordinances, excepting memorials and commemorative resolutions, shall be reviewed by the attorney's office as provided by ordinance, prior to final vote, for a legal opinion as to proper legal form and conformity with existing City ordinances and with state and federal law.
- B. Legal opinions and approval shall be provided to the Council in writing within fifteen days of receipt by the attorney's office of a written request.
- C. The attorney's review and opinion shall be limited to a determination that the proposed action conforms with applicable law.

#### 2.04.170 - Quorum.

- A. A quorum shall consist of three Council members, unless some other quorum is required by State Statute or the plan. No action may be taken without a quorum of Council members present.
- B. All Council action shall require the affirmative vote of a majority of Council members present, unless some other requirement is established by State Statute, City ordinance or the plan.

#### 2.04.180 - Rules of order—General.

- A. Procedural rules not specifically provided herein or by state law, City ordinance or the plan, may be regulated, interpreted and construed in accordance with Robert's Rules of Order.
- B. As circumstances may reasonably require, the Council may, upon a two-thirds vote of the members present, temporarily suspend the rules with respect to the specific matter before it.

#### 2.04.200 - Allocation of percentage to visual arts in capital expenditure appropriations - Reserved.

#### 2.04.210 - Appointment duties.

Pursuant to and in accordance with all applicable provisions of these ordinances, of the plan, and of the laws of the state, the appointment and reappointment of members of boards within the jurisdiction and under the appointment or consent power of the Council shall be as herein provided.

- A. For boards whose members hold terms of three years or less, board members may be reappointed to a consecutive term on their respective boards with the consent of a majority of the Council.
- B. For boards whose members hold terms of longer than three years, no board member shall be reappointed to a consecutive term on the same board unless, for good cause shown and to prevent significant disruption of current board activities, the Council approves such reappointment.
- C. The restrictions upon the reappointment of board members, as provided under this section, shall be limited to the extent that this section may be in direct conflict with federal or state law and where the appointment of board members is set out by or limited under the laws of the United States or the state of Utah.

### Chapter 2.05 - LEGISLATIVE BRANCH ORGANIZATION

#### 2.05.010 - Legislative Audit Division—Establishment—Functions.

- A. There is established within the legislative branch of City government, under the direction of the City Council, the division of legislative audit and internal controls ("division"), which shall perform the functions set out in this section.

- B. The division shall act under the supervision and control of the City Council's legislative audit committee ("committee").
- C. The division shall implement an internal control structure which shall implement the functions, policies and requirements of the Utah Uniform Fiscal Procedures Act.
- D. The division shall, under the direction of the Council, oversee, coordinate and conduct the examination and audit of the accounts of all City officers having the care, management, collection, or distribution of money belonging to the City and do so in accordance with State Statute.
- E. The division shall, under the direction of the Council, conduct any investigation directed by the Council, on any matter pertaining to a City officer or the City or its business or affairs as provided by State Statute.
- F. The division shall establish policies, procedures, methods and standards of work to govern its functions which policies shall be reviewed for approval and adoption by the City Council.
- G. The division shall prepare and submit to the Council such audit reports as performed under the Council's direction and shall do so independently and without bias or interference from any other City office or agency.
- H. On or before April 1 of each year and in preparation of the City budget, the division shall file with the Council an executive summary of all assignments, tasks, reports and operations directed to the division by the committee for the year preceding April 1.

#### 2.05.020 - Legislative Audit Division Director—Duties

- A. There is established the position of director ("director") of the legislative audit and internal controls division to oversee and supervise the division and its employees in accordance with the provisions of this section.
- B. The director shall be a merit-exempt employee of the City reporting to and serving at the pleasure of the City Council. The director's salary shall be established by the City Council.
- C. The director shall oversee, coordinate and direct the functions, activities and business of the division having the management and supervision of the division's employees, under the direction of the committee. The director will oversee, coordinate or conduct examinations, audits and other functions established in this chapter under the direction of the committee and in accordance with State Statute and City ordinance. The director shall be responsible for conducting or supervising the conduct of any audits, investigations, examinations or other reviews approved by the committee, and clarify in writing, where necessary, the exact nature and scope of each legislative audit directive received from the committee. The director shall prepare and file written reports, under the direction of the committee, regarding division activities.
- D. The director shall coordinate with the other City elected officials and agencies, the Council's central staff, including its fiscal staff, general counsel, the tax division administrator, and other staff, in division functions and responsibilities, including budget preparation and budgetary procedures.

#### Chapter 2.06A - CITY EXECUTIVE

##### 2.06A.010 - City Executive.

- A. The elected chief executive officer of Millcreek City shall be known as the "City mayor" or "mayor," and shall have been an elector of the City for at least one year immediately preceding the general election, and shall be elected by the qualified electors of the City at large.
- B. The City Mayor shall be elected at the general election next proceeding the expiration of the term of office of the incumbent, for a term of four years and shall hold office for the term for which elected and until a successor is elected and qualified.



- C. When a vacancy occurs in the office of City mayor, through ineligibility, resignation or death of an incumbent; or of a mayor-elect for failing to qualify; or refusal to act; or for any other reason, the vacancy shall be filled as provided in the state election code.

#### 2.06A.020 - Powers and duties.

- A. The City Mayor shall be the chief executive officer of City government and shall have such powers and duties as are prescribed by statute and by the plan.
- B. The Mayor's executive branch duties shall include the management and direction of the day-to-day activities and responsibilities of the City departments and the executive office of the mayor including those powers and duties set out in Section 3.04 of the Optional Plan for Millcreek City Government, in Title 17, Chapter 53, part 3, of the Utah Code Annotated; and as may be expressly provided in other sources of the law.
- C. The Mayor shall exercise those executive branch powers and duties which have not been expressly vested, by State Statute, in another elected official including Citywide executive functions.
- D. The Mayor is designated in the optional plan for Millcreek City Government as the City budget officer. The Mayor is responsible for the functions, duties, and powers of the City budget officer as established in the Utah Code, including the Utah Fiscal Procedures Act for Counties.

#### 2.06A.030 - Relations with the Council.

- A. The Mayor shall act as the chair of all Council meetings and discussions, with the right to vote and with such attendance counting toward a quorum. The mayor shall preside over council meetings. The mayor may request that particular matters be placed on the Council agenda for discussion and action. Matters requested by the mayor shall be placed on the agenda.
- B. The mayor shall prepare and propose a proposed City budget to the Council for all offices, departments, and agencies of the City as provided by the plan, the ordinances of the City, and state law. The proposed budget shall include the projected revenue and budget message and any revenue proposals or comments of the mayor.
- D. The mayor may make a written request to the Council to reopen and amend the budget during the fiscal year including the June tax rate hearings.

#### 2.06A.040 - Management of City departments.

- A. The Mayor shall be responsible for the management and day-to-day direction of departments and the executive office of the mayor. The duties, responsibilities and activities of the City departments and the executive office of the mayor shall be as directed in City ordinance upon the recommendation of the mayor. The departments, executive office of the mayor, and divisions under the responsibility of the mayor shall be established or modified by ordinance of the Council. Smaller subdivisions of the departments, including all City sections and units, shall be established or modified by the mayor. The activities, organization and responsibilities of the executive office of the mayor shall be as set out in the plan and as established and modified by the mayor.
- B. The Mayor shall be responsible for selecting and appointing department directors, officers of the executive office of the mayor, and associate department directors, with the advice and consent of the City Council. Subordinate division directors and other supervisors and employees of the departments shall be employed subject to the provisions of State Statute, the plan, City ordinance, personnel policies and procedures, and the Personnel Management Act.
- C. If, the position of chief administrative officer is created, the mayor shall be responsible for selecting and appointing the chief administrative officer consistent with the provisions of the plan and this chapter. The chief administrative officer, under the direction of the mayor, will supervise department directors and officers of the executive office of the mayor as appointed and selected by the mayor.

#### 2.06A.050 - Contract processing.

- A. The management and processing of contracts to which the City is a party shall be conducted in accordance with ordinances adopted by the Council and shall be the function of the City purchasing agent as selected by the mayor.
- B. The execution and negotiation of contracts in which the City is a party shall be the responsibility of the mayor with the advice and assistance of the purchasing agent. The preparation, negotiation and execution of certain contracts may be delegated by the mayor to the purchasing agent or to other officers and employees.
- C. The management, execution and adoption of contracts entered into pursuant to the Interlocal Cooperation Act shall be in accordance with the provisions of that act, including resolution by the City Council, where provided by law, and approval by the attorney.
- D. No contract shall be entered into on behalf of or be binding on the City unless it is reduced to writing, approved and executed in accordance with the provisions of City ordinance, the plan and State Statute.

#### 2.06A.060 - Processing claims.

- A. The City mayor or designee is responsible to receive, consider, negotiate, respond to, and settle claims filed against the City. The mayor's response to claims shall be governed by the provisions of the plan, ordinance and State Statute. Claims for payment for goods or services shall be submitted to the auditor for recommendation; claims regarding liability for torts and other legal wrongs shall be submitted to the attorney for recommendation.
- B. The mayor may delegate to the attorney the authority to initiate and negotiate the settlement of certain litigation claims, as defined by the mayor.

#### 2.06A.070 - Advice and Consent—Process.

- A. The appointment of employees, representatives, members of board and commissions, and other appointments within the responsibility of the City, as provided by the plan or State Statute, shall rest with the City executive. Unless otherwise provided by the plan and State Statute, the mayor's appointments shall be subject to the advice and consent of the Council for the appointments of members to policy-making boards, commissions and councils. The appointment of members of advisory boards to the executive shall be without the advice and consent of the Council. The appointment of employees and officers within the executive branch shall be without the advice and consent of the Council, except where otherwise provided by the plan and State Statute. The appointment of employees and officers to positions within the legislative branch shall be made by the Council alone.
- B. For each mayoral appointee subject to the advice and consent of the Council, the mayor shall, at least ten calendar days prior to the Council's consideration, provide the Council with sufficient information so the Council may determine that an appointee is eligible and qualified for the appointed position. The information provided shall include, but is not limited to: a resume, a biography, education, work and other experience, family members who work for the City, and any other relevant information that can help the Council determine that an appointee is eligible and qualified for the appointed position.
- C. The Council shall not make public any information that is private, protected, controlled or otherwise confidential under Utah law.
- D. Prior to council consideration any department director and township executive shall appear before the Council at a scheduled meeting to:
  - 1. Offer a brief statement in support of his or her appointment; and
  - 2. Answer council members' questions.
- E. The Council may request interviews of any or all of the other candidates subject to the advice and consent of the Council not listed in subsection D.

#### 2.06A.080 - Executive orders.

The mayor may issue executive policies and practices in the form of executive orders to administer executive functions or to execute legislative policies and ordinances as provided by law. Executive orders shall be consistent with any ordinances or policies on the subject of the executive order and may not expand or narrow legislative decisions.

#### 2.06A.090 - Committees—Membership—Chair.

The Mayor and Council may from time to time establish committees.

- A. Meetings. The time of such meetings shall be established by the Mayor and Council.
- B. Potential Advisory Committees. The following committees shall be considered working committees and shall be convened as needed: Information services and its subcommittees, personnel advisory committee, government record access management policy administration, electronic communications coordination board and fund management committee. Committees may be established to address specific subjects or special projects. Additional special-purpose or special project committees may be established and dissolved as necessary.

#### 2.06A.100 - Mayor's administrative staff meetings.

- A. There is hereby designated those parties which must participate in the mayor's administrative staff meetings.
- B. Individuals holding the following positions shall participate in the mayor's administrative staff meetings:
  - 1. The mayor;
  - 2. The deputy mayor, if one is chosen;
  - 3. The chief administrative officer;
  - 4. The chief financial officer;
  - 5. The directors of each department established by ordinance pursuant to Section 4.04 of the Optional Plan for Millcreek City Government.
- C. The Mayor's administrative staff meetings shall be held at least once each month.

#### Chapter 2.06B - CITY EXECUTIVE—EXECUTIVE OFFICE OF THE MAYOR (optional)

##### 2.06B.010 - Chief Administrative Officer—Chief Financial Officer

- A. The chief administrative officer, within the executive office of the mayor, is responsible for the management, supervision and oversight of the administration operations of the executive office of mayor and oversees and supervises mayor's office departments and offices.
- B. The chief financial officer, within the executive office of the mayor, is responsible for the management, supervision and oversight of the executive office of financial administration.
- C. The mayor shall designate, in writing, the specific functions and duties of the mayor's executive offices and officers, the duties and powers of the deputy mayor, the organization of subdivisions within each executive office, and lines of supervision and oversight among the executive office, officers, and department directors.

##### 2.06B.020 - Reserved

##### 2.06B.030 - Executive office of financial administration.

- A. There is established within City government, within the office of the City mayor, the mayor's office of financial administration, as provided in this section.

- B. The mayor's office of financial administration shall serve under the direction of the chief financial officer. It shall be composed of such subdivisions, with appropriate staff, as appears necessary to the mayor.
- C. The mayor's office of financial administration shall be responsible for employee service reserve fund oversight, payroll management, fiscal coordination, financial planning, budget preparation, and such other duties and powers as may be necessary to enable the mayor to serve as City budget officer.
- D. The financial administration office shall be responsible for performing accounting functions and payment of warrants as provided in this chapter and in State Statute.
- E. Any other provision of City ordinance referring to financial, accounting or budgeting services which is inconsistent with the provisions of this chapter shall be considered superseded by this chapter.
- F. The mayor may delegate the performance of accounting services to City departments in accordance with good management practices and to foster effectiveness, efficiency and the protection of City assets.

2.06B.040 - Reserved

2.06B.050 - Organization of the executive office of the mayor.

The management, internal organization and duties of the executive office of the mayor, not set out in this chapter, are within the discretion of the City mayor who may establish or revise the organization and structure of the executive office of the mayor, in writing, as the mayor deems appropriate.

2.06B.060 - Administrative law judges.

The executive office of the mayor is responsible for the management of an administrative law system for the City, consisting of administrative law judges who are either employees or contractors and who have authority under State Statute or City ordinance to provide administrative law services and conduct quasi-judicial administrative hearings. Administrative law systems established and managed by other City offices or departments may be excluded from or included within this administrative law system as determined appropriate by the City Council.

## Chapter 2.07 - CITY ETHICS CODE

2.07.010 - Ethics statement.

All City elected officials, appointed officers, deputies and employees, in the employment of Millcreek City, before commencing the duties of their respective offices, shall read and review the following ethics statement:

Employees of Millcreek City support, obey and defend the Constitution of the United States, the Constitution of the State of Utah, the laws of the State of Utah, and the ordinances of Millcreek City, to the best of their abilities and will always strive to meet the highest ethical standards implicit in their employment and in the furtherance of the best public interest.

2.07.020 - Employee training.

All City elected officials, appointed officers, deputies and employees shall attend ethics training, conducted by Millcreek City, every two years regarding their ethical duties and responsibilities as established by State Statute and by the Millcreek City Ethics Code. This training shall be conducted under the direction of the personnel division and the City attorney with a specific curriculum approved by the mayor and the City Council. Attendance at ethics training is mandatory.

2.07.030 - Government in the sunshine.

- A. Millcreek City is considered an open records and open meetings government and all elected officials, officers and employees are directed to observe, with exactness, all applicable provisions of state statute and City ordinance regarding open records and open meetings including, but not limited to, the Government Records Access and Management Act (GRAMA), the Open Meetings Act (ACT) and City ordinances and policies regarding those State Statutes.
1. In the interests of maintaining openness and transparency in City records, City officers and employees are directed to give strong consideration to the application of an impartial balancing test established by GRAMA when determining whether a record should be released. Officers and employees shall seek to achieve GRAMA's express goals of openness while also giving due consideration to individual privacy rights. Where justified, in accordance with GRAMA, and all other considerations being equal, access should be balanced in favor of openness and transparency.
  2.
    - a. As technology presents new developments in the means of communication, including electronic messaging and the "social media," employees and officers are directed to apply GRAMA standards of openness or confidentiality based on the content of a record, regardless of the medium used.
    - b. Whereas many modern forums of electronic media, such as the so-called "social media," reduce or eliminate the City's ability to retain, store, retrieve and copy such communications, City officers and employees are encouraged to seek appropriate and cost effective solutions to make government records which are transmitted in electronic media and are classified as public more available for public review and distribution.
- B. Elected officials in the executive branch are strongly encouraged to make their staff and other meetings open to members of the public and to the media to the extent practical under their statutory and other responsibilities. Although the Open Meetings Act is not binding on individual elected officials, those officials are requested to follow the substantive provisions of the Act in regards to notice, minutes, and other procedural requirements.
- C. The Council directs that the human resources and contracts and procurement divisions develop cost effective means to publish, on the City's website, all personnel actions of a routine nature and information regarding City contracts so that those matters can be readily available for public distribution and information is made public in accordance with the provisions of GRAMA. Records regarding non-routine personnel matters, including disciplinary actions and grievances, and contract information shall be governed by GRAMA as to the public or confidential nature of those records. The Council requests that the mayor's office institute procedures to make public its activities regarding matters of high public interest, where those matters might not already be rendered public under the provisions of GRAMA and the Act.
- D. All meetings of any deliberative board, committee, or agency of the executive branch of the City covered by the Open Meetings Act, including boards or committees conducting quasi-judicial administrative hearings, are directed to conduct all aspects of their decision making process, including both the gathering of evidence and deliberations regarding a decision, in an open and public meeting, with appropriate notice and minutes, unless the nature of the hearing permits closure to the public under the exceptions provided in the Act.
1. Under rare circumstances, where a deliberative body of the executive branch has good cause to close only its deliberation sessions, it may apply to the mayor, in writing, for an exception to subsection D. If the mayor determines that such an exception is in the best public interest of City government and is within the provisions and intent of Utah law, the mayor may give written permission to the applicant agency to conduct only its deliberative process in private, in accordance with the standards established by applicable decisions of the Utah Supreme Court.
  2. All other provisions of State Statute and the Open Meetings Act shall be otherwise applicable to bodies and meetings as defined in the law and to those exceptions in statute which permit closed meetings, under the circumstances and in accordance with the provisions of Section 52-4-205 of the Act.

## 2.07.201 - Conflict of interest.

### A. For the purposes of this section only, the following definitions control:

1. "Compensation" or "compensated" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.
2. "Employee" means a person who is employed on a full-time, part-time, or contract basis by the City as a merit or merit exempt employee. Employee shall include elected and appointed officers of the City.
3. "Financial interest" means, but may not be limited to, any employment by or compensated representation as an agent of any individual, corporation, business entity, organization, or committee. A financial interest also includes any beneficial ownership of one percent or more of a corporation or other business entity.
4. "Governmental action" means any official action on the part of the City, including, but not limited to:
  - a. Any decision, determination, finding, ruling, or order, or discussions thereof;
  - b. Any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect thereto; or
  - c. Any legislative, administrative, appointive, or discretionary act of any public servant or volunteer public servant.
5. "Representative" means any authorized agent of the City. Representative shall include any appointed person, other than an employee, serving on a special, regular, or full-time committee, commission, authority, agency, or board of the City, who is not paid a salary or an hourly wage by the City for his or her services thereon.
6. "Restricted conflict of interest" means any financial interest held by the employee or representative of the City, or by members of an employee's or representative's household, or those providing regular financial support to the employee or representative.
7. "Unrestricted conflict" or "unrestricted conflict of interest" means any and all other interests including political, family, fraternal, social, and other interests or associations which may reasonably create the appearance or the actuality of a conflict of interest between an employee's or representative's outside interest and his or her City responsibilities. "Unrestricted conflict" or "unrestricted conflict of interest" also means other conflicts as defined by State Statute, and any campaign contribution made to the officer, employee, or representative, or to any member of his or her household, of more than five hundred dollars during the prior calendar year.

### B. General prohibitions.

1. City employees are governed by the City Officers and Employees Disclosure Act (UCA § 17-16a-1 et seq.) regarding outside interests and conflicts that are prohibited or that require disclosure.
2. Employees and representatives are prohibited from using non-public information in a manner that could provide themselves or another a gain or benefit.
3. Employees and representatives shall not use or attempt to use their position in a manner that could secure special privileges or exemptions for themselves or others.
4. Employees and representatives are prohibited from engaging in any outside activity, employment, or financial investment which constitutes a restricted conflict of interest where such conflict could impair their judgment regarding the faithful performance of City responsibilities.

### C. Restricted conflicts of interest.

1. Employees and representatives are required to fully and publicly disclose any restricted conflict of interest and shall recuse themselves from, and have no involvement in, any governmental action in which they have a restricted conflict of interest.
  2. If an employee or representative is not aware of the financial interest, he or she must disclose the financial interest and recuse as soon as he or she learns of the financial interest.
  3. Any action, vote, contract, or other governmental action which has been undertaken by an officer, employee, or representative who has a restricted conflict of interest shall be terminable by the body that took the action, or by the City officer with authority to void or terminate the action. That body or City officer may also ratify any prior governmental action that was taken in violation of this section.
- D. Unrestricted conflicts of interest.
1. Employees and representatives must publicly disclose any and all unrestricted conflicts of interest at any meeting, hearing, or deliberation where the employee or representative is present and the unrestricted conflict of interest could impair the judgment of the employee or representative.
  2. Employees or representatives who have unrestricted conflicts are not required to recuse themselves but may do so.
- E. Disclosure.
1. Employees and representatives are required to comply with all legal requirements setting a responsibility to disclose restricted and unrestricted conflicts of interests between their public duties and private activities. In particular, City employees are bound by the requirements of the City Officers and Employees Ethics Act (UCA § 17-16 a-1 et seq.).
  2. Oral or written disclosures must be made in accordance with State Statute, other sources of the law, and this section.
  3. Employees are required to file written disclosures in accordance with the provisions of State Statute and City ordinance. All written disclosures must be kept current and are filed both with the officer or employee's immediate chain of command and with the City Council.
- F. Contractual representatives.
1. Individuals and business entities who contract to represent the City's interests shall disclose to the City the names of other clients they represent and those clients' respective issues and interests that are relevant to the City's interests. Unless they receive written permission from the City mayor and council, such individuals or business entities are prohibited from representing other clients about the same or substantially same issues and interests as covered by the City representation.
  2. Individuals and business entities who contract to represent the City's interests by lobbying the State Legislature or any other municipal, state or federal office or agency are prohibited from engaging in any lobbying of City officers, employees, agencies or offices, as defined in Section 2.73.010 of this title.

#### 2.07.202 - City endorsements.

Notwithstanding the provisions of this chapter, the City or a City official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

#### 2.07.203 - Definitions.

The terms defined in this section shall have the following meaning:

"Gifts" means anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services

provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.

"Honoraria" means the offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.

"Purchasing official" means any officer or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods, services, or real property or any specific contract related to a procurement of goods or services or disposal of property.

#### 2.07.204 - Gifts.

Officers and employees of the City shall not knowingly accept or solicit any gift for themselves, family members or organizations of the officer or employee or others, except as permitted in Section 2.07.207.

#### 2.07.205 - Gifts and the procurement process.

- A. Without exception, receipt or solicitation of any gift or a request for employment by a purchasing official from any person including a vendor of goods, seller or buyer of real property, or service provider is illegal and punishable as provided by statute.
- B. It is unlawful and punishable as provided by statute for any payment, gift or offer of employment to be offered or made by any person to a public officer or employee or contractor of the City to obtain a specific procurement, disposal, contract or subcontract.
- C. Contracts entered into resulting from a violation of this section are voidable and any payments made on these contracts shall be recoverable to the City.

#### 2.07.206 - Honoraria.

Officers and employees of the City shall not accept honoraria in regard to activities related to their City duties or purpose except as provided in Section 2.07.207.

#### 2.07.207 - Exceptions.

The following are exceptions to the gifts and honoraria requirements of this chapter except as provided in Section 2.07.205:

- A. The gift is a political contribution authorized by law and reported as part of the campaign disclosure requirements of the City or any other governmental entity;
- B. Token items of nominal value, including but not limited to, educational materials, t-shirts, coffee mugs, parking validations or other commemorative or similar souvenir items;
- C. Snacks, beverages or educational or informational materials provided at meetings or other functions;
- D. Transportation to and attendance at conventions, seminars, or events of a primarily educational nature, including meals and entertainment that are part of the required registration, and any associated educational or informational materials directly related to the official duties of the officer or employee;
- E. Gifts not related to the activities of the officer and employee with the City;
- F. Awards publicly made for public service;
- G. Food or a beverage given at a widely attended reception, meal, or meeting by an organization before whom the recipient appears to represent Millcreek City, make a speech, answer questions or participate in part of a program;
- H. Attendance at political events that are primarily sponsored by a political party or political candidate;



- I. Flowers, plants, balloons or similar tokens which are given to express condolences, congratulations, or sympathy for ill health, or to commemorate holiday or special occasions;
- J. City sponsored programs activities or work;
- K. Gifts for the City that become the property of the City;
- L. Gifts to City officers, employees or agencies from other City officers, employees or agencies;
- M. Death transfers including bequests and inheritances; and
- N. Gifts to blind trusts related to legal defense funds for imminent or pending litigation against officers or employees (related to their official duties).

#### 2.07.208 - Restrictions on post-City employment.

- A. When a City officer or FLSA exempt employee, excluding uncompensated volunteers, voluntarily leaves City service he or she is prohibited for a period of one year from directly communicating, for compensation, with his or her former City agency for the purpose of attempting to influence any action on any matter pending before that City agency. This prohibition does not apply to routine government services which do not require the exercise of discretion or to the normal scope of a person's licensed professional capacity.
- B. Any private business entity or individual whose employee or contractor is found to be in violation of this section shall be prohibited from contracting or conducting any non-statutory transaction with the City for a period of one year from date of the violation.
- C. A former officer or employee is not prohibited from holding any office, but must disclose and resolve any conflicts of interest arising from their previous City employment which conflicts of interest would tend to interfere with the City's best interest.

#### 2.07.209 - Nepotism.

- A. No City officer or employee shall employ, appoint or attempt to influence the appointment or hiring of a relative to any City position or employment paid out of City funds, except for temporary or seasonal employment or positions.
- B. No City officer or employee shall directly or indirectly supervise a relative in any City position or employment paid out of City funds.
- C. No officer or employee may be involved in any way in an evaluation of a relative for purposes of pay, benefits, promotion, or discipline.
- D. In situations where a merit employee who is a relative of a superior occupies an appointment that occurred before the officer assumed his or her supervisory position or occurred before the effective date of this ordinance, steps shall be taken to establish alternative lines of supervision and evaluation and to remove anything that may indicate or appear to indicate nepotistic behavior.
- E. In this section, "relative" means parent, spouse, child, sibling, uncle, aunt, nephew, niece, first cousin, parent-in-law, child-in-law, sibling-in-law, or household member.

#### 2.07.401 - Political activities of employees.

- A. Except as otherwise provided by law, City officers or employees may voluntarily participate in political activity subject to the following provisions:
  - 1. No person shall be denied the opportunity to become an applicant for a position under the merit system in any covered department by virtue of political opinion or affiliation.
  - 2. No person employed by the City under the merit system may be dismissed from service as a result of political opinion or affiliation.

3. A City career service employee may voluntarily contribute funds to political groups and become a candidate for public office.
  4. No City officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any officer or employee covered under the merit system to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No City officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the officer's or employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.
  5. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from City employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a City employee to the party or candidate of the employee's choice.
  6. Nothing contained in this chapter shall be construed to permit partisan political activity by any City officer or employee who is prevented or restricted from engaging in such political activity by the provisions of the federal Hatch Act.
- B. Officers and employees, including employees covered by a merit system, may become candidates for political office or for leadership positions in political parties. Officers and employees doing so shall refrain from engaging in any political activities or campaigning during City working hours. Officers and employees may take an unpaid leave of absence in order to run for political office. Such a leave is at the employee's discretion and may be for some or all of the time between filing a declaration of candidacy and the end of the political campaign. No adverse employment action may be taken against officers or employees who file for office or take a leave of absence.

#### 2.07.402 - Prohibitions on political use of City resources.

No employee shall use any property or resources of Millcreek City, including time, other City employees, equipment, material, City Seal, buildings or facilities in connection with any political activity, except in accordance with established City policy regarding scheduling and use of public meeting rooms.

### Chapter 2.08 - ADMINISTRATIVE ORGANIZATION

#### 2.08.010 - Purpose and applicability of provisions.

It is the intent of the Council to organize the executive department of City government under the authority of the mayor in a manner designed to provide service delivery to the public in an efficient and coordinated manner. Certain of the elected offices, divisions, boards and commissions described in this chapter have statutory duties and contractual prerogatives independent of authority delegated by the Council, and it is not the intent of the Council to preempt, abrogate or diminish such authority; neither are the functional descriptions meant to be exhaustive of the duties assigned and delegated to the respective organizational subdivisions and offices. However, it is deemed necessary by the Council to include all subdivisions and offices of City government for purposes of effective Citywide administration and coordination under an administrative code as provided for in these ordinances. This authority extends to administrative functions common to all subdivisions and offices including central services. The mayor has authority as established by this code to implement and enforce Citywide administrative requirements. Further, all City executive authority not expressly granted by law or interlocal agreement to other elected officers, boards or commissions is reserved to the mayor.

#### 2.08.020 - Administrative classifications—Employment of administrative personnel.

- A. The offices and organizations of the City elected officials shall be known as "offices."
- B. Executive offices and departments under the mayor shall be major governmental subdivisions headed by officers and directors, exempt from the merit system, who are appointed by the mayor with advice

and consent of the Council. Departments shall be divided into functional service units denoted as "divisions." All subdivisions within a division shall be denoted as "sections." Division directors, office administrators and all other administrative personnel, unless otherwise provided by law and excepting those positions set out as merit-exempt in City personnel policies, shall be under the merit system. Directors of the major departments, and officers of the executive office of the mayor, shall select, pursuant to the requirements of the City Personnel Management Act, division directors and administrators, subject to the approval of the mayor.

#### 2.08.030 - Ordinance requirements.

- A. The function of proposing, considering, reviewing, approving and enacting ordinances is a legislative process which lies solely within the power, authority and discretion of the Council pursuant to law. The Council may, at its discretion, provide for the limited delegation of certain powers and activities to other committees, persons or entities to assist in the preparation of proposed City ordinances. The legislative committee is established to serve as an advisory body to assist the Council in the consideration of City ordinances, Citywide policies and procedures, and similar regulations or other matters as directed.
- B. Proposals for City ordinances shall be submitted to the Council for initial consideration, review, and further assignment. A draft of the proposed ordinance should be prepared by the officer or entity making the proposal, by the attorney's office or by council staff, at the direction of the Council. Draft ordinances should be in standard legislative form, including a long title and enacting clause and setting out the matter to be deleted by brackets and interlineation and the matter to be added by underlining or by other appropriate designations.
- C. Referral to the legislative committee is not mandatory, and is done at the discretion of the Council. A proposed ordinance which has been prepared in draft form may be forwarded to the legislative committee for initial review. After review, the proposed draft ordinance shall be promptly forwarded by the legislative committee chair, either with or without a favorable recommendation, to the Council.
- D. Prior to submission to council, any proposed draft ordinance shall be reviewed as to form and legality by the attorney and the attorney will respond in writing to the chair of the committee or council within fourteen days of receipt of the ordinance.
- E.
  - 1. Upon receipt from the legislative committee of a proposed ordinance or an amendment to an existing ordinance, the Council may reject or adopt the proposal as approved by the committee, conduct further public hearings on the matter, refer the ordinance proposal to other groups or individuals for comment and input, or it may amend the proposed ordinance prior to final adoption by the Council.
  - 2. At any time the Council may direct that the Council be provided with information concerning a proposed ordinance or direct that action be taken on a proposed ordinance by writing to the legislative committee, attorney's office or other entity involved in drafting, preparing, reviewing or considering the proposed ordinance. Upon receiving such written direction, the entity shall complete its activities regarding the ordinance and within fourteen days shall produce it for action by the Council.
  - 3. Upon review, approval and adoption by the Council, the proposed ordinance shall become legally effective upon being signed by the chair, attested by the City clerk, and fifteen days after its adoption and upon at least one publication in a newspaper published and having general circulation in the City.
  - 4. Any amendments proposed to an existing ordinance after the effective date of the ordinance by the Council shall follow the procedures in this section.
  - 5. Amendments proposed to an ordinance after it has been formally adopted by the Council, but prior to the ordinance's effective date, may be considered by the Council without referral to legislative committee, unless such referral is directed by the Council. In the event that an ordinance is amended after its formal adoption and after the publication of a newspaper notice, but prior to the expiration of fifteen days after adoption, the Council shall direct that a newspaper notice be published retracting the original ordinance and substituting the amended version. The

amended ordinance is effective in accordance with the provisions of subsection (E)(2) of this section.

6. All ordinances approved by the Council shall be accompanied by an ordinance summary prepared by the attorney in accordance with State Statute.
- F. Ordinances which in the opinion of the Council are necessary for the immediate preservation of the peace, health or safety of the City and the inhabitants thereof may, if so provided in the ordinance, take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the City.
- G. Departments, divisions, and other subdivisions of the executive branch shall be established, abolished, consolidated or realigned as provided in the plan. Boards, commissions and councils which are advisory to the mayor and are not vested with policy-making authority need not be created by ordinance and appointments thereto are not subject to the advice and consent of the Council.

#### 2.08.040 - Policies and procedures defined.

As used in this code, "Citywide policy and procedure" means a written statement formally adopted by the Council providing for the implementation of council's ordinances, powers and duties and Citywide governance and administration of City government and which is applicable to all departments, offices and organizations.

Citywide policies shall control over any executive order or internal department or office policy on Citywide administrative matters. Citywide administrative matters include but is not limited to activities relating to central services.

#### 2.08.050 - Council initiated, City-wide policies and procedures.

- A. Whenever a policy or procedure with City-wide impact or implications is suggested by a majority of the Council, the chair shall refer the matter for adoption in accordance with Section 2.04.160.
- B. Copies of the tentative policy and procedures statement may be sent by council staff to the legislative committee for consideration and advisory comment. The attorney shall review as to form and legality any Citywide policy referred by the Council, council staff, or legislative committee and respond in writing within fourteen days of receipt of the request.
- C. After review, the legislative committee chair shall place the policy and procedures statement, with the committee's comments attached, on the agenda of a regular meeting of the Council for formal consideration and adoption.

#### 2.08.060 - Department, elected officer or mayor initiated policies and procedures.

City-wide policies and procedures proposed by the mayor, elected officials, officers of the executive office of the mayor, or department or division directors shall be sent to the Council to be placed on the agenda of the next regular meeting of the Council committee of the whole for formal consideration and adoption.

#### 2.08.070 - Departmental and divisional internal policies and procedures and executive orders.

The offices, departments, sections and divisions of City government shall prepare such written policies and procedures and standard operating manuals as may be useful for their internal administration, utilizing a standard format. Policies adopted by the mayor may take the form of executive orders.

- A. All matters or procedures having Citywide impact including major operations and procedures, relations with other offices, divisions or departments, employee rights and benefits, purchasing or contracting; cash handling; budgeting; debt financing; or significant contact with the public, shall be adopted in the form of policies and procedures which must be approved by the Council and may not be in conflict with law, ordinance or Citywide policy. All other policies may be adopted by the mayor or other offices. Executive orders implementing ordinances or Citywide policies and

procedures or addressing the operations and programs of the executive department may be adopted by the mayor. Offices are encouraged to adopt written policies and procedures.

- B. Departments, offices, divisions and sections of City government are encouraged to adopt a class of City policy or regulation, to be known as a standard operating manual, regarding activities and operations which are of a character which does not arise to the level of a formal policy and procedure. Such manuals shall refer to and provide guidance to City employees regarding day-to-day operations, safety concerns, the operation of equipment, vehicles and devices, approved methods for accomplishing tasks, operations and work assignments, and similar matters. Subjects regarding major operations and procedures, relations with other divisions or departments, employee rights or benefits, cash handling, or significant contact with the public, may not be encompassed in a standard operating manual, but must be covered by formally approved and adopted policies and procedures. Standard operating manuals shall be kept current and shall be made readily available to all employees and supervisors affected thereby. Standard operating manuals must conform to applicable laws, ordinances and policies, and the provisions of a law, ordinance or policy will prevail over a conflicting provision in a standard operating manual. Manuals need not be submitted to the legislative committee nor be approved by the Council. City employees may be liable for disciplinary action for failure to follow or abide by the provisions of a standard operating manual, policies or procedures, or executive orders.

#### 2.08.080 - Policies and procedures—Adoption.

All Citywide policies and procedures adopted by the Council must bear the signatures of the Mayor and clerk. Citywide policies may be reviewed by the attorney for form and legality as directed by the Council prior to adoption by the Council.

#### 2.08.090 - Policies and procedures—Recordkeeping and distribution.

It shall be the responsibility of the Council staff to keep a current record of all council-approved policies and procedures and to distribute newly adopted policies and procedures to all departments, divisions and offices.

#### 2.08.100 - Conflict between City policies, State Statutes and executive orders.

Whenever a policy and procedure or executive order issued by the mayor is in conflict with a State Statute or an ordinance of the City, the statute supersedes the ordinance and the policy and procedure or executive order. An ordinance supersedes a policy and procedure or executive order. A Citywide policy supersedes an executive order. Executive orders issued by the mayor implementing Citywide policies or ordinances supersede office policies.

#### 2.08.110 - Discrimination prohibited.

Discrimination in Millcreek City government services based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of Millcreek City government services. This section is not intended to expand the services of City government beyond those required by state or federal law.

### Chapter 2.09 - CITY LITIGATION

#### 2.09.010 - City litigation—Control and direction.

- A. Any litigation involving or against the City is governed by the provisions of State Statute and applicable case law precedents.
- B. All litigation involving Millcreek City is under the control and is conducted through the office of the attorney, as provided in statute and in accordance with the attorney's professional responsibilities, subject to the limited exceptions as set out in State Statute and this chapter.

- C. The direction of civil litigation involving Millcreek City is under the authority of the mayor, in accordance with State Statute. If another City elected official, board, or other entity is empowered by specific State Statute to direct litigation, that officer, board or other entity is responsible for the direction of such litigation.

#### 2.09.020 - Securing outside legal services.

- A. Any hiring of outside legal counsel in any litigation or any other matter involving the City is with the consent and approval of the attorney.
  - 1. In cases in which the attorney is incapacitated, refuses to act, is unavailable or has a disqualifying conflict of interest the decision to hire outside counsel is vested in the mayor.
  - 2. The attorney may approve and recommend the hiring of outside legal counsel to represent the City in cases where the attorney has a disqualifying conflict of interest or where specific needs, qualifications or expertise in legal services are required.
- B. Processing and executing a contract for outside counsel is governed by Section 2.09.060 of this chapter.

#### 2.09.030 - Litigation against the City.

The legal authority of any City official, officer or employee, acting in an official capacity, to engage in litigation against or on behalf of the City or against any City official, officer or employee must be within that official's, officer's or employee's express authority under State Statute or City ordinance. If the City official, officer or employee has no such legal authority, City funds shall not be used to pay attorney's fees or other legal costs, except in the following circumstances:

- A. The use of City funds is approved in advance by the mayor, council and attorney; or
- B. The litigation against the City or its officials, officers or employees ultimately and substantially succeeds on the merits or payment is ordered by the court.

#### 2.09.040 - Funding legal counsel.

- A. If litigation is filed against the City or any of its officials or officers by a City official, officer or employee, within his or her express authority under State Statute, the hiring of that, legal counsel is governed by the provisions of Section 2.09.020 and 2.09.060.
- B. The Council shall approve the specific budget for the fees and other costs of outside counsel in any litigation brought against the City or any of its officials, officers or employees.
- C. If any litigation is brought against the City or its officials, officers or employees by a City official, officer or employee and does not ultimately succeed on the merits, or if the procedures and requirements of this chapter are not followed, the costs of litigation and attorneys' fees shall be the personal responsibility of the official, officer or employee, unless otherwise ordered by a court of competent jurisdiction.

#### 2.09.050 - Limitations.

- A. Nothing in this chapter shall be construed to authorize any City official, officer or employee to bring a lawsuit against the City.
- B. Nothing in this chapter shall be construed to limit the authority of a court of competent jurisdiction from levying costs or attorneys' fees in accordance with applicable law.

#### 2.09.060 - Procurement process.

- A. The process to secure the services of outside legal counsel is initiated as provided under Section 2.09.020 with the consent and approval of the attorney, in accordance with state law. Legal services contracts are executed by the mayor or purchasing agent.

- B. After the initial approval, the attorney shall send a written request to the purchasing agent to explain the need, the nature of the services, and the initial review process which has been followed to date. This written request may include the name of a specific attorney to provide services, and shall include an estimated budget and a proposed payment plan.
- C. If the request names a specific outside counsel or law firm, the written request must also include information explaining that counsel's or firm's qualifications and a statement that the counsel or firm possesses a high degree of professional skill and has important individual abilities and fitness. The request must further set out the criteria and process the attorney used to select the counsel or firm, explain any prior business or personal relationships the attorney or other requesting City official has with the requested counsel or firm, and explain the process followed to determine the outside counsel's or firm's legal fees.
- D. The written request is reviewed for form, process and content by the purchasing agent, who either endorses the request, as following appropriate procedures under this chapter, or recommendation of denial for failure to follow those processes. Any recommendation of denial by the purchasing agent is reviewed and resolved by the mayor. The final contract is reviewed and approved as to form by the attorney and is executed by the mayor.

## Chapter 2.10 - MUTUAL COMMITMENT REGISTRIES

### 2.10.010 - Purpose.

The City is committed to promoting justice, equity, and inclusiveness in the provision of benefits to all of its citizens that might be offered by the City or by private employers licensed by the City. The City finds that it is made up of households and that in those households relationships exist in many different forms. Those forms include committed, unmarried couples in either same or opposite sex relationships; adult familial relationships; and committed friendships. The City wishes to promote the public health, safety, welfare, and prosperity of its citizens and generally improve overall quality of life by allowing for the efficient and streamlined disposition of benefits that the City, other governmental entities or businesses licensed within the City might offer to their employees - including an employee's designee listed on the mutual commitment registry. The City finds that a City-maintained list is the best way for the City, other governmental entities, and businesses licensed within the City to reliably ascertain whether an employee's designee listed on the mutual commitment registry and beneficiaries are eligible for such benefits. Therefore, it is the policy of the City to allow two adults in a committed relationship who meet the mutual commitment registry criteria, to register with the City and to obtain a certificate attesting to their status.

### 2.10.020 - Requirements for mutual commitment registry.

To be eligible to register a relationship of mutual commitment with Millcreek City, any two individuals (the "declarants") must meet the following criteria:

- A. Freely declare that they are solely and mutually committed to each other;
- B. Be persons eighteen years of age or older;
- C. Be competent to contract;
- D. Be directly dependent upon, or interdependent with each other and sharing a common financial obligation. Documentation demonstrating a common financial obligation shall include any two of the following four documents:
  - 1. A joint loan obligation, mortgage, lease, or joint ownership of real property or a vehicle;
  - 2. A life insurance policy, retirement benefits account, or will or trust of one declarant designating the other declarant as beneficiary thereto, or will or trust of one declarant which designates the other declarant as executor or successor trustee;
  - 3. A mutually granted power of attorney for purposes of healthcare or financial management;

4. Proof of showing that one declarant is authorized to sign for purposes of the other declarant's bank or credit account;
- E. Currently share a primary residence in Millcreek City. For these purposes "primary residence" means the place where the declarants reside. The legal right to occupy the residence need not be joint; and,
- F. Execute a declaration of mutual commitment, attesting to the foregoing requirements and attesting that the parties are in a relationship of mutual commitment, support, and caring; are responsible for each other's physical and financial welfare; and have the present intention to remain in that relationship.

#### 2.10.030 - Declaration of mutual commitment.

- A. Mutual commitment declarants shall make an official record of their relationship by executing a "declaration of mutual commitment" on the form prescribed by the City.
- B. The declaration must include a statement that the declarants are in a relationship of mutual commitment, support, and caring, and are responsible for each other's welfare. For these purposes, "mutual support" means that they contribute mutually to each other's maintenance and support.
- C. The declaration must include a statement that the declarants agree to file a notice of termination of the relationship if there is a change in the status of their relationship such that they cease to meet the criteria for the mutual commitment registry.
- D. The sworn declaration shall include the date on which the mutual commitment was registered, the mailing address of the declarants, and the notarized signatures of the declarants. The declaration shall further state that the declarants meet all the criteria for the mutual commitment registry set forth in section 2.10.020.
- E. The City shall have no duty to verify the information provided by the individuals filing the declaration of mutual commitment.

#### 2.10.040 - Termination of mutual commitment.

- A. A mutual commitment ends when:
  1. A declarant dies; or
  2. A declarant executes a notice of termination, stating that one or more of the criteria listed in Section 2.10.020 no longer applies. If only one of the declarants executes the notice of termination, then that declarant shall attest to the fact that he or she has sent a copy of the notice of termination to the other declarant at the other declarant's last known address. This notice requirement does not apply if the termination of the mutual commitment is due to the death of one of the declarants.
- B. A person cannot register a mutual commitment until at least six months after any other mutual commitment of which he or she was a declarant ended and a notice that the mutual commitment ended was given. This does not apply if the earlier mutual commitment ended because one of the members died.

#### 2.10.050 - Registration and fees.

- A. The City clerk's office will keep a record of all declarations of mutual commitment and of all notices terminating a mutual commitment.
- B. The fee for filing a declaration of mutual commitment shall be forty dollars (or such lesser, cost-based amount as may be determined by the City clerk), which entitles the persons filing the declaration of mutual commitment to two certified copies of the official statement.
- C. No fee will be charged for filing a notice terminating a mutual commitment.



- D. An amendment to a declaration may be filed by a declarant with the City clerk's office at any time to show a change in his or her mailing address. The record will be maintained so that amendments and notices terminating a mutual commitment are filed with the declaration of mutual commitment to which they apply.

#### 2.10.060 - Use of mutual commitment registry.

- A. All facilities owned or operated by the City and services provided by the City shall allow those listed on the mutual commitment registry, and his or her children, to be included in any rights and privileges accorded a spouse and children for purposes of use and access to City facilities and services.
- B. The mutual commitment registry may be made available to City offices and departments, other governmental entities, private business and non-profit entities, and other associations to verify the status of persons listed on the registry.

#### 2.10.070 - Severability.

If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

### Chapter 2.12 - CITY OFFICERS AND EMPLOYEES

#### 2.12.010 - Applicability of chapter provisions.

The provisions of this chapter shall apply alike to all elected and appointed officers or employees of the City, regardless of the time of the creation of the office or of the time of the appointment of the officer.

#### 2.12.015 - Definitions.

"Appointed officer" means merit-exempt managers, including department directors, chief deputies, administrative assistants or otherwise exempt under the Personnel Management Act and other state law.

"Assistant" means merit exempt appointed positions of elected officers.

"Elected officer" means the mayor, or a council member and persons appointed to fill a vacancy in one of the elected offices.

"Deputy" means sworn personnel of an elected officer holding the powers and authority granted by the elected officer.

"Employee" means a person in the paid employment of Millcreek City.

"Officer" means an elected or appointed officer or a deputy.

#### 2.12.020 - Reserved

#### 2.12.030 – Reserved

#### 2.12.040 - Official oath of office.

Every officer and deputy of the City shall, before entering upon duties, take the oath prescribed by law.

#### 2.12.050 – Bonds, as per City recommendation.

- A. Every City position, if required by Council action or State Law shall, before entering upon the discharge of his respective office, execute, as required, official bonds running to the City.
- B. Any amounts required in the preceding subsection are for corporate surety bonds. If bonds with personal surety are furnished, the amount is fixed at fifty percent higher than the amounts in subsection A of this section.

- C. If corporate surety bonds are furnished in the amounts and for the sums hereinbefore set forth and are approved by the risk manager and the Council, the City shall pay the premiums of the bonds for such officials. The premiums on the bonds of officers and council members shall also be paid by the City.

#### 2.12.060 - Assignment of duties.

- A. Department heads may hire and assign some of their duties to personnel within their department.

#### 2.12.080 - Salaries.

All officers of the City herein designated shall receive such annual salaries as are fixed by the Council as provided by the Utah Code. The Council shall approve the pay plan for all other City employees after consideration of a pay plan submitted by the personnel division. Salary for assistants shall be fixed by the elected officer appointing the assistant consistent with the approved budget of the office.

#### 2.12.090 - Recordkeeping.

All records as defined by the Government Records Access and Management Act, kept by any officer or employee of the City shall be open to inspection by any member of the Council or by the mayor at all reasonable times and upon reasonable notice.

#### 2.12.100 - Inspections and enforcement.

Any officer or employee of the City who is authorized to enforce ordinances may make such inspections as are necessary to ensure their enforcement. Whenever an officer or employee shall have reason to believe that there exists on any premises within the City's jurisdiction any health or fire hazard, or a structural or electrical defect likely to result in injury to person or property, he shall ask permission of the occupant, owner or custodian thereof to inspect the same. In the event that such permission is refused, the officer or employee must follow the procedure set out in State Statute in order to make an inspection.

#### 2.12.110 - Termination of office.

Every officer/employee of the City, upon the expiration of his employment for any cause whatsoever, shall deliver to his successor all property, books and records that may be the property of the City

#### 2.12.120 - Interfering with officers or employees prohibited.

It is unlawful to interfere with or hinder any officer or employee of the City while the officer or employee is engaged in the duties of office or employment.

#### 2.12.130 - Impersonation of officers or employees prohibited.

It is unlawful for any person to impersonate any City officer or employee with intent to deceive another. Violation of this section is a Class B misdemeanor.

#### 2.12.140 - Office of City attorney.

- A. There is created a state prosecution district for the City of Millcreek, third judicial district, state of Utah, and the office of City attorney of that prosecution district, as provided in Section 17-18-1.9, and Section 17-16-2.5, Utah Code Annotated (1993) (hereinafter "The Act").
- B. The Office of the City Attorney.
  - 1. The attorney for Millcreek City shall be considered an officer of the City, as provided in the Act.
  - 2. The qualifications, and term of office of the City attorney shall be as provided in the Act.

3. The City attorney shall act as full-time public prosecutor, council advisor, and departmental advisor in the City and shall perform the functions, exercise the powers, and be subject to the duties and responsibilities set out in the Act.

2.12.150 - Reserved

## Chapter 2.14 - DEPARTMENT OF ADMINISTRATIVE SERVICES

### 2.14.010 - Department established—Director's duties.

There is established within the City government a department of administrative services that shall be administered by a director having the following duties:

- A. Establishes policies and procedures for the operation of the department and divisions within the department, subject to the review and approval of the mayor; monitors and evaluates division performance; represents the department's divisions as necessary;
- B. Coordinates with the chief administrative officer personnel, planning, budgeting, contracting, fiscal management and service delivery for the divisions within the department, and makes recommendations to the mayor concerning these matters;
- C. Reports to the chief administrative officer, who under the direction of the mayor, shall establish standards regarding the performance of his or her job duties;
- D. Manages such contracts as is deemed appropriate by the mayor;
- E. Performs other assignments as directed by the mayor or by City ordinance.

### 2.14.020 - Office of administration.

There is established within the department of administrative services an office of administration that will consist of the director's staff. The office of administration shall include the position of department fiscal officer who shall be responsible for oversight of all department fiscal affairs and records. The office is responsible for assisting the director in performing the duties delegated in this section.

### 2.14.030 - Divisions established—Authority and responsibilities.

The department of administrative services shall be comprised of the following divisions that shall perform the services set forth in this chapter. Each division shall be responsible as assigned for planning, managing, budgeting and evaluating of service programs and delivery systems and for the contracts attendant thereto under the administrative direction of the department director and the chief administrative officer. The degree of administrative direction exercised shall be in accord with any independent authority delegated to the respective offices, divisions and their boards or commissions by statutory law, ordinance or contract.

#### A. Contracts and Procurement.

1. Unless otherwise provided by Chapters 3.16 through 3.36 of this code, as amended, or as provided by State Statute, this division is responsible for the acquisition of goods and services required by the City; for the negotiation of contracts, whether purchase orders or bilateral contracts, for the acquisition of goods and services; for the storage and retention of such contracts and related documents; for the monitoring, in conjunction with contracting City departments, divisions and offices, of such contracts to ensure compliance and performance; and for the disposal of surplus City personal property.
2. The director of the division of contracts and procurement shall serve as the City purchasing agent, with such authority and responsibility as set forth in State Statute and as delegated by the Council by ordinances heretofore adopted or as may be hereafter adopted. Additionally, the director shall be jointly responsible with the departmental directors and elected officers, for ensuring that contracts contain the most favorable terms reasonably

possible for the City, are administratively practical and workable, and are monitored to ensure compliance and performance. The director shall forward all contracts requiring execution by the City to the mayor, together with any recommendations and concerns regarding the contracts, except Interlocal Cooperation Act agreements which will be forwarded to the Council for approval and for execution by the Council chair.

3. The responsibilities of the division shall also include:

- a. Purchasing. This section is responsible for purchasing goods and services for all departments and offices by means of competitive bidding or negotiation, as set forth in Chapters 3.16 through 3.36 of this code;
- b. Consultant Selection. This section is responsible for the acquisition of consultant services for all departments and offices as set forth in Chapter 3.24 of this code;
- c. Contracts and Grants Management. This section is responsible for acting as a repository and clearinghouse for all City contracts and agreements. It is responsible for contract negotiations, compliance and coordination, except as otherwise designated by ordinance;
- d. Surplus Personal Property. This section is responsible for disposal of surplus property according to Chapter 3.36 of this code and City-wide policy and procedures.

B. Information Services. This division is responsible for providing data processing and computing services to all elected offices, departments, divisions, commissions and boards of the City. The division may provide similar services to non-City entities by contract.

C. Personnel. This division is responsible for recruitment testing, classification and certification of personnel in conformance with applicable statutory merit systems. The division is also responsible for personnel record retention, employee benefits, employee assistance programs, equal employment opportunity, City-wide training, and coordination of equal employment opportunity programs for the City. The division of personnel shall be considered the office of personnel management for the City and its director shall be considered the director of the office of personnel management pursuant to the duties and authority granted in the City Personnel Management Act of State Statute.

D. Fleet Management. This division is responsible for the acquisition, maintenance and replacement of all City motor vehicles, and for the operation of the City motor pool function and related facilities.

E. Facilities Management.

1. This division is responsible for maintenance, operations and repair of the Millcreek City government center structures and grounds and all other facilities designated by the mayor. Also, this division is responsible for the development, management, coordination and implementation of the City telecommunications system.
2. The division shall develop and maintain a five-year capital improvements and maintenance plan for all City-owned and lease facilities, excluding flood control and highway projects administered by the public works department. The division shall prepare and manage the annual capital improvement and capital maintenance budget for the general fund and municipal services fund.

3. The division director shall serve as the chair of the capital construction committee.

2.14.040 - Sections established—Authority and responsibilities.

The department of administrative services shall include the following sections that shall perform the services set forth in this chapter. Each section shall be under the immediate direction of the department director and shall be responsible, as may be assigned by the department director, for planning, managing, budgeting and evaluating service programs and delivery systems and the contracts attended thereto.

- A. Printing Services. This section is responsible for printing and preparing documents for the departments and divisions of the City.
- B. Archives and Records Management. This section is responsible for the management and preservation of City records and for coordinating City-wide compliance with the Governmental Records Access & Management Act (UCA 63-2-101, et seq.).
- C. Real Estate Services. This section is responsible for the sale, purchase, management, or lease of real property owned by the City in accordance with City ordinance.

## Chapter 2.15 - DEPARTMENT OF COMMUNITY SERVICES

### 2.15.010 - Established—Duties.

There is established within the City government a department of community services that shall be administered by a director having the following duties:

- A. Establishes policies and procedures for the operation of the department and divisions within the department, subject to the review and approval of the mayor; monitors and evaluates division performance; represents the department's divisions as necessary;
- B. Coordinates with the chief administrative officer personnel, planning, budgeting, contracting, fiscal management and service delivery for the divisions within the department, and makes recommendations to the mayor concerning these matters;
- C. Reports to the chief administrative officer, who under the direction of the mayor, shall establish standards regarding the performance of his or her job duties;
- D. Manages such contracts as is deemed appropriate by the mayor;
- E. Manages the zoo, arts and parks program; and
- F. Performs other assignments as directed by the mayor or by City ordinance.

### 2.15.020 - Reserved

### 2.15.030 - Divisions established—Authority and responsibilities.

The department of community services shall be comprised of the following divisions that shall perform the services set forth in this chapter. Each division shall be responsible as assigned for planning, managing, budgeting and evaluating of service programs and delivery systems and for the contracts attendant thereto under the administrative direction of the department director and the chief administrative officer. The degree of administrative direction exercised shall be in accord with any independent authority delegated to the respective offices, divisions and their boards or commissions by statutory law, ordinance or contract.

- A. Parks and Recreation. This division is responsible for the administration, operation and maintenance of facilities and for the development and coordination of recreational, child care and other related social programs.

## Chapter 2.20 - DEPARTMENT OF HUMAN SERVICES

### 2.20.010 - Established—Director's powers and duties.

There is established within the City government a department of human services that shall be administered by a director having the following duties:

- A. Establishes policies and procedures for the operation of the department and divisions within the department, subject to the review and approval of the mayor; monitors and evaluates division performance; and represents the department's divisions as necessary;

- B. Coordinates with the chief administrative officer personnel, planning, budgeting, contracting, fiscal management and service delivery for the divisions within the department and for other agencies providing human services in the City, and makes recommendations to the mayor concerning these matters;
- C. Reports to the chief administrative officer who, under the direction of the mayor, shall establish standards regarding the performance of his or her job duties;
- D. Represents the local mental health authority in the selection, delivery and monitoring of public mental health services;
- E. Manages such contracts as deemed appropriate by the mayor.

#### 2.20.020 - Office of administration.

- A. The department of human services may include the position of associate director. The mayor shall be responsible for selecting and appointing the associate director with the advice and consent of the Council. If an associate director is assigned, he or she shall be responsible for overseeing the services performed by the central administrative office, shall serve as acting director of the human services department in the absence of the director, shall serve at the direction of the department director or chief administrative officer or mayor on various boards and committees, and shall perform other duties as assigned by the director.
- B. If the mayor determines to not employ or assign an associate director, the director, with the approval of the mayor, shall appoint in writing a designee who shall perform the duties of associate director, as set out in this section, during the absence or incapacity of the department director. The designee shall exercise all authority and perform all duties established by ordinance, policies or statute of an associate director.
- C. There is established within the department of human services an office of administration that will consist of the director's staff. The office is responsible for assisting the director in performing the duties delegated in Section 2.20.010 of this chapter.

#### 2.20.030 - Divisions designated.

The department of human services may be comprised of the following divisions that shall perform the services set forth in this chapter. Each division shall be responsible as assigned for planning, managing, budgeting and evaluating its service programs and delivery systems, and for the contracts attendant thereto under the administrative direction of the director of human services and the chief administrative officer. The degree of administrative direction exercised shall be in accord with any independent authority delegated to the respective offices, divisions and their boards or commissions by statutory law, ordinance or contract.

- A. Aging and Adult Services. This division is responsible for helping Millcreek City's older residents, their caregivers, and other qualifying adults remain independent and in their homes by providing information, home and community based services, transportation, nutrition, education, socialization, healthy lifestyles, advocacy and volunteer services and opportunities.
- B. Behavioral Health Services. This division is responsible for the administration of a full continuum of substance abuse prevention, intervention, treatment and aftercare services. Representing the local authority, the division provides comprehensive needs assessment and planning, coordination of services, information dissemination, and funding advocacy. The division is the contract administrator for the mental health authority.
- C. Criminal Justice Services. This division consists of pretrial services and the alcohol counseling and education center. Pretrial services provide an alternative to pretrial detention by supervising pretrial defendants and referring them to various counseling or treatment agencies. The alcohol counseling and education center offers substance abuse counseling and education services to the criminal justice client including pre-sentence and probation services.

- D. Health Services. This division is responsible for educational, treatment and enforcement programs designed to protect public health and preserve the environment.
- E. Library Services. This division is responsible for the administration, operation and maintenance of the City's library system.
- F. Youth Services. This division is responsible for the administration and operation of children and youth services including diversion, prevention services and crisis support facilities and programs.

#### Chapter 2.21 - Reserved

#### Chapter 2.24 - DEPARTMENT OF PUBLIC WORKS

##### 2.24.010 - Established—Director's duties.

There is established within the City government a department of public works that shall be administered by a director having the following duties:

- A. Establishes policies and procedures for the operation of the department and divisions within the department, subject to the review and approval of the mayor; monitors and evaluates division performance; represents the department's divisions as necessary;
- B. Coordinates with the chief administrative officer personnel, planning, budgeting, contracting, fiscal management, and service delivery, including maintenance, repair and replacement of all vehicles, equipment and facilities assigned to the divisions within the department, and makes recommendations to the mayor concerning these matters;
- C. Management of such contracts as is deemed appropriate by the mayor;
- D. Reports to the chief administrative officer who, under the direction of the mayor, shall establish standards regarding the performance of his or her job duties.

##### 2.24.020 - Public works engineer.

The engineering division director shall be the public works engineer.

##### 2.24.030 - Associate director—Responsibilities.

- A. The department of public works may include the position of associate director, who shall serve as acting director of the public works department in the absence of the director. The associate director shall perform such duties as are assigned by the director.
- B. If the mayor determines to not employ or assign an associate director, the director, with the approval of the mayor, shall appoint in writing a designee who shall perform the duties of associate director, as set out in this section, during the absence or incapacity of the department director. The designee shall exercise all authority and perform all duties established by ordinance, policies or statute of an associate director.

##### 2.24.040 - Divisions of the department designated.

The department of public works may be comprised of the following divisions that shall perform the services set forth in this section; provided, however, each division shall be responsible for planning, managing, budgeting and evaluating its service programs, safety programs and delivery systems and for the contracts attendant thereto under the administrative direction of the director of public works. The degree of administrative direction exercised shall be in accord with any independent authority delegated to the respective divisions and their boards or commissions by statutory law, ordinance, or contract.

- A. Administration. This division constitutes the staff of the director and is responsible for assisting the director in performing the duties delegated in Sections 2.24.010 and 2.24.020. This division is also responsible for development and maintenance of department policy and procedures and

provides accounting, budget development and analysis, personnel, purchasing, information system services and cash management support for all divisions in the department.

- B. Flood Control. This division is responsible for the planning, engineering, construction, maintenance, operations and regulation of flood-control facilities in both the incorporated and unincorporated areas of the City. It is further responsible for the storm water quality management program, the water resources management program and coordinating of the Jordan River sub-basin watershed management council.
- C. Operations.
  - 1. This division is responsible for the construction, maintenance, inspection and testing of City roads; including materials production, snow removal, pavement management, curb, gutter, sidewalk, bridges, drainage and other related facilities. The division is further responsible for the implementation of control measures for noxious weeds and the inspection of beehives in the City.
  - 2. This division is responsible for the identification, manufacture, installation, inspection and maintenance of traffic control devices for City roads. This division is also responsible for the identification, installation and maintenance of advance traffic management systems (ATMS) and the coordination of traffic signals in the City. It is further responsible for the maintenance and repair of street lights.
  - 3. The division is responsible for the security of the department's facilities and vehicles through the investigation of complaints and accidents involving employees or equipment at the Public Works Midvale location. The division is also responsible for administration of the communications system.
- D. Solid Waste Disposal. This division plans, operates and manages the City's solid waste management programs, landfill and waste transfer station facilities as provided for by interlocal agreement with Millcreek City. The director of this division is responsible to the Salt Lake Valley solid waste management council for the operation of the landfill and is administratively responsible to the director of the public works department.
- E. Animal Services. This division is responsible for the enforcement of animal ordinances; sheltering and placement of stray domestic pets and livestock; and dissemination of information on animals and animal care.

#### 2.24.050 - Sections established.

- A. The Department of Public Works may include the following sections that shall perform the services set forth herein. This section shall be under the immediate direction of the department director and shall be responsible, as may be assigned by the department director, for planning, managing, contracting, budgeting and evaluating service programs and delivery systems.
- B. Addressing Office. This section shall coordinate the Citywide addressing system used by City agencies, municipalities, and external agencies and businesses. This section is also responsible for the assignment and management of addressing for the unincorporated City and for preparing a manual of policies which apply definitions and standards to the addressing function.

#### 2.24.060 - Fee requirements and limitations.

The divisions of the public works department may impose fees for providing government services in accordance with the provisions of this ordinance and as may be required or permitted by law. Fees shall be calculated and imposed in an amount that will reimburse the City for its expenses in enforcing regulations or providing services or benefits and may not be imposed in an amount which significantly exceeds those costs.

#### 2.24.070 - Fee establishment process.



- A. A fee shall be initiated by a division director, upon consultation with and approval by the department director.
- B. In establishing the amount of a fee, the provisions of Section 3.42.070 shall be followed and costs and elements may be considered, including but not limited to:
  - 1. City employee expenses, including full compensation costs of all employees normally required to provide the services;
  - 2. All direct costs:
    - a. For internal division costs, in accordance with accepted accounting standards; and
    - b. For City indirect costs, in amounts established by the auditor's office;
  - 3. Any expenditures the City is required to make to other government entities, private contractors or other third parties;
  - 4. Reserves for liability, asset replacement, and capital improvements; and
  - 5. Costs and materials of other direct operational expenses.
- C. Fees shall be finally determined, approved and adopted by the City Council pursuant to Millcreek City ordinance 3.42.040.
- D. Fees shall be posted and available to the public either electronically or by physical posting at the City offices or work place.
- E. Fees may be amended at times other than during budget approval by submitting a letter requesting a fee amendment to the City Council for its review and approval.

#### 2.24.080 - Department director powers—Fees.

- A. The department director shall review and approve a schedule of all fees imposed by divisions within the public works department prior to submission to the City Council during the budget approval process.
- B. The department director may waive or adjust fees, or may designate division directors to waive or adjust fees, in accordance with the following standards and procedures:
  - 1. A fee imposed by the public works department or any division thereof may be waived or adjusted by the department director unless that fee is specifically established by ordinance or by State Statute or regulation. Fees established by ordinance may only be waived by the Council and fees established by state law may only be waived in accordance with state law.
  - 2. Waiver shall be upon good cause shown and in the public interest. Any waiver shall be in writing.
  - 3. Fees such as late fees or service charges may also be waived, based on the standards and processes established in this ordinance.

#### Chapter 2.26 - HAZARDOUS LOCAL EMERGENCY PLANNING COMMITTEE - Reserved

#### Chapter 2.30 - CITY JUSTICE COURTS

##### 2.30.010 - Establishment.

The City network of justice courts shall function under the mayor and shall be composed of individual judges and such merit employees as may be authorized.

##### 2.30.020 - Administrative organization.

City justice court judges shall annually elect one judge to serve a one-year term as presiding judge. Justice court judges are elected officials, as established by state law, and the presiding judge shall act in

the capacity equivalent to a division director. Court administration functions may be performed by the administration/fiscal manager and the personnel manager, one or more merit-covered manager positions, who shall report to the presiding judge. The administration/fiscal manager shall be responsible for budget, facilities, equipment and computer operations. The personnel manager shall be responsible for supervising nonfiscal personnel, personnel policy management, management of court workflow processes and court liaison functions. Both managers shall schedule and attend regular and special meetings and conduct other matters pursuant to the policies and procedures promulgated by the Utah Judicial Council or at the request of the presiding judge or the mayor. Judicial policies and procedures shall be approved by the justice court judges. Justice court division personnel policies shall be approved by the Council.

#### 2.30.030 - Single justice court precinct—The number of justices.

- A. Pursuant to the provisions of Section 17-53-210, and Section 78-5-102, U.C.A., (1953, as amended), the Council creates a single justice court precinct for the City to encompass all geographical jurisdictions covered by individual justice court precincts or as approved by the Council.
- B. For the purpose of the residency of a nominee or existing justice court judge "precinct" shall be the entire geographical area of Millcreek City.
- C. The Council may determine the number of judges as required by efficient judicial administration.
- D. Any citations, information or complaints within the single justice court precinct shall be assigned to the judges at random, unless otherwise ordered by the presiding judge to serve the interests of justice and judicial efficiency.

#### 2.30.040 - Nominating commission.

When a vacancy occurs in the office of a City justice court judge, the mayor shall establish a judicial nominating commission. The nominating commission shall consist of the following individuals:

- A. One council member or designee;
- B. The attorney or designee;
- C. The County sheriff or designee;
- D. The presiding justice court judge as an ex officio non-voting member; and
- E. A designee of the mayor.

#### 2.30.050 - Filling vacancies and nominating process.

- A. The nominating commission, upon being appointed, designated or informed of the request of the mayor that it is to be convened will meet within ten days' time and develop the criteria for the selection of applicants for the position.
- B. When receiving notice of a vacancy, the mayor, with the assistance of the personnel division, shall in addition to the requirements of Section 20A-1-506 (Utah Code Annotated, 1953) advertise the vacancy by publishing a notice of the vacancy at least twice in a newspaper of general circulation in the City. The notice of vacancy shall include the address of the personnel division where applications for the vacancy can be obtained for completion and filing for consideration by the nominating commission. The time for which applications can be submitted for the vacancy shall be no less than fifteen days after the first day of publication of the vacancy.
- C. Applicants who meet the criteria established by the nominating commission and the eligibility requirements of Section 78-5-137, Utah Code Annotated (1953) for the position of City justice court judge, shall be considered by the nominating commission. After considering the applicants and evaluating the qualifications, the nominating commission shall submit three names for each vacancy to the mayor. Staff assistance shall be provided to the nominating commission by the personnel division.

#### 2.30.060 - Appointment.

The mayor, upon receipt of the list shall make an appointment within fifteen calendar days thereafter, or reject all the named applicants and refer the matter back to the nominating commission for a new list and recommendation.

#### 2.30.061 - Interim appointments.

The mayor may appoint a qualified person to fill a vacancy in the office of City justice court judge pursuant to the provisions of Title 78, Chapter 5, Utah Code Annotated (1953), as amended, as an interim appointment pending completion of the foregoing nominating commission process and appointment of a permanent judge by the mayor to fulfill the balance of the term in office. The interim appointment shall not exceed ninety days.

#### 2.30.070 - Reporting.

After a newly appointed justice court judge has been appointed by the mayor, the judge's name shall be reported to the judicial council.

#### 2.30.080 - Removal.

City justice court judges shall be subject to removal as provided in State Statute.

#### Chapter 2.32 - Reserved

#### Chapter 2.36 - Reserved

#### Chapter 2.39 - VOLUNTEER SERVICES ADVISORY BOARD

##### 2.39.010 - Purpose.

In enacting the ordinance codified in this chapter, it is the purpose of the City to provide for the encouragement of volunteer services and programs within Millcreek City. The City recognizes that volunteers are essential to the productivity, efficiency and cost effectiveness of Millcreek City government. The effective management of volunteer programs is, therefore, a matter of significant importance.

##### 2.39.020 - Volunteer services advisory board.

There is established the Millcreek City volunteer services advisory board which shall be responsible for oversight and management of the Citywide volunteer programs. The services advisory board shall consist of no less than seven members and shall report to the mayor. Board members shall be City employees and persons in the community who are experienced in and advocates of volunteer services and programs and shall be appointed for staggered two-year terms, by the mayor.

- A. Staff assistance shall be provided by the office of volunteer program services.
- B. It shall be the duty and responsibility of the volunteer services advisory board to advocate and support volunteerism and develop uniform policies and procedures, subject to the approval of the Council, regarding operation of volunteer programs.

##### 2.39.030 - Policies and procedures.

It shall be the responsibility of the volunteer services advisory board to develop and maintain Citywide policies and procedures dealing with volunteer programs and services. Such policies may be subject to review and approval as-to-form of the attorney's office and shall be reviewed and approved by the City Council. The volunteer services advisory board, with staff assistance from the office of volunteer program

services, shall be responsible for the maintenance, upkeep and promulgation of volunteer policies and procedures.

#### 2.39.040 - Volunteer benefits.

- A. Volunteers participating in approved volunteer programs shall be entitled to the following Millcreek City benefits and shall be deemed employees of Millcreek City only for the purposes of:
  - 1. Medical reimbursement under workers' compensation for any injuries sustained by the volunteer while engaged in the performance of any authorized volunteer service for the City;
  - 2. Operation of City vehicles or equipment including mileage reimbursement, if in the performance of volunteer services and if properly authorized and licensed;
  - 3. Liability protection normally afforded City employees, as provided in the Governmental Immunity Act (63-30b-1, et seq., U.C.A., 1953);
  - 4. Such other benefits as may be authorized by law, the Council or policy and procedure.
- B. A volunteer shall be considered entitled to the benefits set out only when that volunteer is serving in an approved volunteer services program as provided by policies and procedures, has signed a volunteer service contract and is working under the direction and supervision of a City employee.

### Chapter 2.40 - FLEET MANAGEMENT BOARD

#### 2.40.010 - Fleet management board.

There may be established, a City fleet management board which is empowered to provide oversight of operations and decisions regarding City vehicles. The board shall be advisory to the City mayor and City Council and shall have such responsibilities as are set out by this chapter and by City policies. The board's function is to assist in providing cost effective, efficient, and safe fleet operations and vehicle use and maintenance.

### Chapter 2.44 - BUSINESS-GOVERNMENT ALLIANCE

### Chapter 2.46 - GEOGRAPHIC INFORMATION SYSTEMS STEERING COMMITTEE

### Chapter 2.48 - CRITERIA AND PROCESSES FOR THE NAMING OF PUBLIC PLACES AND FACILITIES

#### 2.48.010 - Purpose.

The purpose of this chapter is to establish criteria for the naming of public places and facilities and to provide a process to name, or change the name, of a public place or facility. The process provides for citizen input when applicable and recommendation from an advisory committee.

#### 2.48.020 - Definitions.

As used in this chapter:

"Advisory committee" means any existing board or committee that possesses advisory responsibilities with respect to the office, department or division responsible for operating the public place for which a name change has been proposed or the specific committee established pursuant to Section 2.48.030 to which has been assigned the task of recommending to the City Council the name of a public place or a change to the name thereof.

"Public place" means, but is not limited to, streets, courts, parks, thoroughfares, buildings and other City-owned public facilities and areas located in Millcreek City.

"Substantially owned and operated by the City" means that the City expended at least fifty-one percent of the funds to build, purchase or renovate a facility and expends at least fifty-one percent of the operating budget.

#### 2.48.030 - Procedures for naming and renaming public places.

- A. All requests to name or rename a public place, except for those excluded from the application of this chapter, shall be submitted to the City Council for consideration. Upon receipt of the request, the Council shall refer the request to the appropriate existing advisory committee or, if no advisory committee exists, establish an advisory committee of five members to consider the request.
- B. The advisory committee shall schedule, conduct and hold at least one public meeting to solicit public comment regarding the naming or renaming of a public place.
- C. After consideration of the public comment and the consistency of the naming or renaming request with the criteria and factors set out in Section 2.48.040, the advisory committee shall prepare an analysis and recommendation(s) on the request and submit the same to the City mayor and council. The recommendation may be for one or more names for the public place. In submitting the recommendation, the advisory committee shall identify the reasons for the recommendation(s) and additionally shall supply the mayor and council with all names considered.
- D. The City Council may accept, reject, or modify the recommendation and then make a final determination of the naming by resolution or by ordinance, if such is required. The Council action shall hold at least one public hearing on the recommendation prior to making a final determination on the recommendation.
- E. Staff and administrative support shall be provided to the advisory committee by the City mayor.
- F. All meetings of the advisory committee shall be subject to the Utah Open and Public Meetings Act.

#### 2.48.040 - Guidelines for naming or renaming public places.

- A. All City facilities substantially owned and operated by the City and completed after July 1, 2013 shall be identified as being owned and operated by the City as set forth herein. The City shall include the words "a Millcreek City facility," or similar, in the name of each public facility substantially owned and operated by the City. All permanent on-site signs identifying City facilities shall be clearly visible and shall include the full name of the facility as adopted under the guidelines set forth in this section.
  - 1. For City facilities completed prior to July 1, 2013, the City shall create a schedule to bring those facilities into compliance with this subsection A within a reasonable time as determined by the mayor. The schedule shall consider budget restraints, scheduled replacement dates for signage, and other relevant factors.
  - 2. The City may use temporary signage for facilities completed prior to July 1, 2013, until the City is able to bring those facilities into compliance with this subsection A.
- B. If the City and another entity jointly construct, own or operate a facility, the City shall work with the other entity to recognize the collaborative nature of the project and to recognize the interests of the other entity in the naming of the facility.
- C. Prior to making a recommendation to the City Council for the naming or renaming of a public place, the advisory committee shall consider the following factors:
  - 1. The names or public identification of adjacent or nearby streets or prominent physical or geographic features;
  - 2. The city, community or subdivision in which the public place is located;
  - 3. Significant historical features or events that are associated with the public place or the area in which it is located;

4. Whether the individual, or entity on the individual's behalf, has made a significant contribution to the public place's existence or development. In considering this criteria, the advisory committee shall also consider the contributions of others to the public place's existence or development; and
  5. Whether the naming suggestion is supported by the community at large.
  6. Whether a City entity has invested funds to brand its name.
- D. If the advisory committee is considering naming a public place after a deceased individual, the individual must have been deceased for a minimum of six months prior to the time the advisory committee recommendation is made to the City Council.
  - E. If the advisory committee is considering naming a public place after a government official, the government official must have been out of office for a minimum of five years.

#### 2.48.050 - Exceptions.

- A. Sections 2.48.030 and 2.48.040 shall not apply to the naming or renaming of public thoroughfares in accordance with Sections 18.28.024 and 18.28.025, Millcreek City Code of Ordinances, 2001, or relevant successor provisions; and
- B. Naming requests that are conditioned upon financial contributions offered to the City shall be considered by the Council and mayor. The Council and mayor shall make all decisions regarding the offering, acceptance of funds or any other arrangement regarding the sale of naming rights on City owned facilities.

### Chapter 2.49 - STREET ADDRESSING AND PROPERTY IDENTIFICATION

#### 2.49.010 - Purpose.

It is the purpose of this chapter to establish in the unincorporated area of the City a uniform system of property identification in order to foster uniformity and order among street names and numbers and structure numbers within the City and to provide an adequate system of property identification for the providers of emergency services within the boundaries of the City.

#### 2.49.020 - Duty to identify property.

It shall be the duty of the addressing division to establish an addressing standards and definitions policy in the unincorporated area of the City, to name and number all streets therein and to designate numbers for houses or buildings fronting upon all such streets, to issue an affidavit identifying a certified address and to enforce the provisions of this chapter, consistent with the purpose of this chapter.

#### 2.49.030 - Definitions.

As used in this chapter:

"Address (situated address)" means a unique alphanumeric descriptor which identifies the property location of a parcel of land, a building or other structure on the Citywide grid system.

"Address format" means the order of assemblage and structure of the five standardized components (frontage number, directional, street name or number, street type, substructure suffix) used in the legal situated address.

"Addressing standards and definitions policy" means the established regulations and guidelines, as revised from time to time, which define specific procedures for the design and designation of address numbers on all houses and buildings including occupancy units therein as well as the design of names and numbers for streets both public and private including standards for street intersection markers (signs).

"Baseline street" means the east and west directional street (South Temple Street in Millcreek City) which intersects with the meridian (Main Street in Millcreek City) street to benchmark the permanent origin

of the Citywide grid system and provide a datum point from which the coordinates of all other streets and legal situs addresses are calculated (see "meridian street").

"Citywide grid system" means the coordinate system which has evolved and developed for identifying address and street locations over the greater part of the City.

"Directional" means the compass direction of the legal situs address which references the Citywide grid and the direction in which the frontage numbers are measured along the roadway of both public and private streets.

"Final plat" means a map or chart of a subdivision, PUD, condominium or other proposed development which has been accurately sited or surveyed, and located on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified.

"Frontage number" means the prefix component of the legal situs address which is numerically sequenced and assigned to a structure or parcel along a street according to its relative distance perpendicular to the baseline or meridian axis of the Citywide grid system.

"Intersection" means the point on the Citywide grid system which identifies the location where two or more streets cross one another.

"Meridian street" means the north and south directional street (Main Street in Millcreek City) which benchmarks the permanent origin of the Citywide grid system and provides a datum point from which the coordinates of all other streets and legal situs addresses are calculated (see "baseline street").

"Official street and address files" means the computer files and associated maps adopted by the City including the general plans of the City.

"Private rights-of-way" means streets which are retained and maintained under the ownership of private individuals intended for private use.

"Property identification affidavit" means the official documentation issued to the owner/resident for their parcel, building or premises dwelling or designated on final plats recorded in the office of the City recorder.

"Public rights-of-way" means streets which are dedicated for perpetual public use and are administered by the governing entities in which they are located.

"Street" means any rights-of-way, under public or private ownership for public use, designed for the travel of motorized vehicles to enter and exit through passage and to include the ways used for internal circulation of traffic.

"Street name" means the alphabetic name assigned, not including the street type designator, to identify both public and private streets which are on the Citywide grid, and is one of the primary components of a legal situs address.

"Street number" means the name of a street designated with numerals according to its numerical position on the Citywide grid relative to the baseline or meridian axis streets.

"Street type" means a standardized identification descriptor which corresponds to physical and functional characteristics of a street (i.e., "Avenue," "Bay," "Boulevard," "Circle," "Court," "Cove," "Drive," "Expressway," "Lane," "Parkway," "Place," "Road," "Row," "Street" and "Way").

"Subdivision" means the division of a tract, or lot or parcel of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development or redevelopment, and a plat has theretofore been recorded in the office of the City recorder under a unique name to identify one subdivision from another. In property identification context, "subdivision name" may also be used to identify other conditional use or project names.

"Unit locator" is the last component of a legal situs address which is an alphabetical or numerical code used to identify a one-to-one correspondence between a building and high-density occupancy structures within the building such as suites, rooms, apartments and condominium units.

2.49.040 - Names of streets designated in official street and address files.

All streets of unincorporated Millcreek City, whether public or private, shall be known by the names by which they are so designated in the official street and address files of the City, filed in the addressing division, with such additions, changes and corrections of the names as shall from time to time be placed in the official files by ordinance.

#### 2.49.050 - System of numbering.

The addressing division, in numbering the houses or buildings upon the streets of unincorporated Millcreek City, shall adhere to the following address format:

- A. The initial point of intersection in the Citywide grid system shall be the junction of Main Street (meridian street) and South Temple Street (baseline street axis) in Millcreek City, and the numbering shall extend thence east, west, north and south, the even numbers always on the right and odd numbers on the left, looking away from the initial point.
- B. Each property identification number must contain:
  1. A frontage number component which is numerically sequenced and assigned to a structure or parcel along a street according to its relative distance perpendicular to the baseline or meridian axis of the Citywide grid;
  2. A direction component referencing the City grid quadrant and the compass direction in which the frontage numbers run, which shall be used whenever a street number is used in an address, abbreviated with the single letter equivalent for its compass direction (N, E, S or W);
  3. A street name component consisting of either an alphabetic name or a number name, but not both;
  4. Street type component, which modifies the name to distinguish specific locational, functional and physical characteristics of the street; and
  5. A unit locator component, which is an alphabetical or numerical code used to identify high-density occupancy units within a structure having one and the same frontage number component.
- C. Street numbers never contain alphanumeric characters (e.g. 2nd South Street). When a street number is designated, a directional corresponding to its orientation on the grid is also required (e.g. 200 South Street").
- D. Street names must meet the criteria established pursuant to subsection E of this section before final approval can be given by the addressing division.
- E. The addressing division shall develop a written policy for street and structure identification and elimination of duplicate street names, which policy shall be approved by the City Council and shall be available for inspection at the offices of the addressing division and at the offices of the Council clerk. The street identification criteria should take into consideration historical character, local color or theme, locational characteristics, and compatibility with adjacent streets.

#### 2.49.060 - Display of property identification number.

When a property identification number has been designated by the addressing division, the owner or occupant of such house or building shall cause a painted, carved or cast duplicate of such number at least three inches in height and varying in size according to the setback distance of the structure, and of a shade contrasting with the background upon which the number is mounted, to be located on the structure as provided in this chapter. Such number shall be block numerals (not script) and shall be located in a conspicuous position upon the portion of such structure which faces the street identified in the address certificate. The property identification number shall be mounted in a permanent, stationary and durable manner, unobstructed at all times by vines, screens or anything that would tend to hide or obscure the number, and at a sufficient height that the number will be clearly perceptible with the unaided eye from the centerline of the street upon which the structure is located.



2.49.070 - Property identification approval required for final plat approval.

Property identification approval must be given by the addressing division prior to final approval of a subdivision. The property identification approval must appear on the final plat of a subdivision, PUD, condominium or other proposed development prior to final approval and upon amendment. The developer shall pay for and the City arrange to manufacture and install all street identification signs as required by the addressing division.

2.49.080 - Street identification change.

- A. Upon application from seventy-five percent of the owners of structures located upon a street for a change in street name identification, and upon payment of a fee set in accordance with Section 3.42.040, the public works director may grant a street name change. If the request is granted, the applicant shall pay the cost of changing signage. After payment is received, the City shall change the signs and the official street file.
- B. If, in the opinion of the public works director, the requested change of street name serves a legitimate public interest, the public works director may waive payment of the fee.

2.49.090 - Street identification change originated by the City.

- A. The City may initiate a street name change when doing so would be in the public interest.
  - 1. The addressing division shall notify all owners of properties which have structures on the street proposed for a name change, by mailing to the City recorded property owner address.
  - 2. If the property owners who own lots with structures on a street proposed for a name change desire to participate in renaming the street, they may sign a petition agreeing and proposing a new street name. The new name petition must contain at least seventy-five percent of the signatures of recorded property owners with structures and must be completed within thirty days after notification of the proposed name change by the addressing division.
  - 3. If property owners do not provide a petition agreeing on a new street name, the name change shall be based on recommendation from the addressing division to the public works director.
- B. The addressing division will recommend a proposed street name change to the director of public works. The public works director will approve any street name change by communicating the approval, in writing, to the addressing division. The payment of a fee may be waived by the public works director when a name change is based on public safety reasons.
- C. The addressing division will record the appropriate documentation to officially change a street name after approval of the change has been given in writing by the director of public works. The addressing division shall notify the United States Postal Service, the Valley Emergency Communications Center, and other appropriate government and public safety agencies of the name change. After recordation the City shall change the signs and the original street file.

2.49.100 - Address change originated by the City.

- A. In the interest of public safety, the City may direct the change of an address. Address changes may be made only after providing written notification to the owners of the property whose address is proposed for change, mailed to the City's recorded address.
- B. A letter will be sent informing the property owner of the proposed address change and requesting that the owner contact the addressing division to discuss the proposed change. The addressing office will provide a reasonable time, not to exceed one month, and make appropriate efforts to contact and discuss the proposed address change with the property owner.
- C. A final letter notifying the property owner of the address change will be sent, by registered mail, to the owner's City recorded address and shall include a copy of the recorded address change affidavit.

- D. The addressing division will record the appropriate documentation to officially change an address. The addressing division shall notify the United States Postal Service, the Valley Emergency Communications Center, and other appropriate government and public safety agencies of the name change.

#### 2.49.110 - System of street identification signs.

It shall be the duty of the addressing division to establish a uniform system for street identification signs upon all streets of unincorporated Millcreek City.

#### 2.49.120 - Street identification signs.

Street identification signs, approved by the City, shall be paid for by the developer or property owner with manufacturing and installation arranged by the City at the intersections of all streets and highways and at such other locations as may be determined to be necessary by the addressing division.

#### 2.49.130 - Street signs—Compliance.

It is unlawful to erect or maintain any street identification sign which has not been approved by the addressing division.

#### 2.49.140 - Street signs—Requirements.

All street signs shall be constructed and installed in accordance with the specifications approved by and on file with the City.

#### 2.49.150 - Enforcement and violation.

- A. It shall be the duty of the addressing division to enforce the provisions of this chapter.
- B. It is unlawful for any owner of a parcel of land upon which a structure is located to fail to number such structure or units within the structure with the number designated by the addressing division. It is unlawful for the owner of any structure or substructure or for the owner or agent of any unoccupied habitable structure located upon a street within the City to fail to number such structure or units within the structure with the designated number in the manner set forth in this chapter. It is unlawful for any person to number a structure or units within a structure in any manner other than that prescribed in this chapter.

#### 2.49.160 - Nonconforming properties—Time for completion.

- A. This chapter shall apply to all streets, structures, street identification signs and address numbers, public or private, existing within unincorporated Millcreek City at the time of adoption of the ordinance codified in this chapter as well as those thereafter created or constructed.
- B. Any person or entity violating the provisions of this chapter, either by failing to do those acts required herein, or by doing any act prohibited herein, is guilty of a Class B misdemeanor.

#### 2.49.170 - Commemorative street names.

- A.
  1. Consideration of a commemorative street name is initiated by a written request from a person, organization, or other entity requesting the commemorative name. The written request shall include the requested commemorative name, the reason justifying the commemoration, the existing street number or name, the range or length of the requested commemorative name, and any information regarding requested signage or plaques.
  2. A written request must be accompanied by a petition signed by at least seventy-five percent of the recorded property owners who own structures on the street proposed for the commemoration.

3. The request may include a written letter of support or recommendation from the applicable community council.
  4. A request for commemorative name must be accompanied by a fee in an amount established by the City Council.
- B.
1. A proposed commemorative name must meet all applicable addressing standards established by Chapter 2.49 of these ordinances. If for any reason the request does not meet these standards, a letter requesting a waiver of these standards, showing a good cause justification therefor, shall be provided by the requestors.
  2. A proposed commemorative name must meet any requirements or limitations imposed by applicable emergency services and public safety service providers. These requirements may not be waived.
  3. The following preferences shall apply to the review and approval of any proposed commemorative name.
    - a. A proposed commemorative name shall have a long-standing local or community identification with City residents and be understandable to a majority of those residents.
    - b. Preference shall be given to any name which:
      - (1) gives a sense of place, continuity, and belonging reflecting the geographic location, community, and neighborhood;
      - (2) recognizes the historical significance of an area;
      - (3) reflects any unique characteristics of the area; or,
      - (4) is consistent with any generally accepted or common theme.
    - c. The name of a person, organization, corporation, foundation, or similar entity shall be considered only when such person or entity has made a significant contribution to the City by enhancing the quality of life and well-being of the City and its citizens or contributing to the historical, cultural, or societal interests of the City, the State of Utah, or the United States. A proposed commemorative name recognizing an individual will be considered only if that person is deceased.
- C.
- The review and final approval of any proposed commemorative street name shall be within the sole discretion of the City Council, which may reject any proposed commemorative street name. The City Council shall apply the following general limitations regarding a proposed commemorative name change which:
1. Causes confusion or misunderstanding due to duplication of or similarity with an existing name, location, or other street name within Millcreek City;
  2. Is the name of an entity or business associated with tobacco, alcohol, pornography, or subject to police regulation;
  3. Is discriminatory of or derogatory towards any race, gender, creed, political affiliation, or similar consideration;
  4. Recognizes a single person for a contribution similar or identical to the efforts made by other persons or a group of persons; or,
  5. Consists of a logo or trade name for a commercially available product or service.
- D.
1. A petition for a commemorative street name shall be initially reviewed and considered for recommendation by the City addressing office which shall review the proposal for compliance with the provisions of this section and Chapter 2.49 of these ordinances. The addressing office may also request the review and recommendation of the engineering division, operations division, and public safety service providers, where necessary.

2. The recommendation of the addressing office shall be forwarded for review and approval by the mayor. The mayor shall review the proposal and send a written recommendation regarding the proposal to the City Council.
  3. Final approval, either accepting or rejecting the petition, shall be made by the City Council. The Council may, in its discretion, conduct a public hearing regarding the proposed name change before making a final decision.
- E.
1. If approved by the City Council, the commemorative name shall be processed by the addressing office, which shall record the commemorative name as officially adopted.
  2. A street's official numerical designation or other certified name shall be used, not the commemorative name.
  3. The cost of making and installing appropriate plaques or signs designating the commemorative name shall be paid by the original requestors.

#### Chapter 2.50 - CITY CONSTABLES - Reserved

#### Chapter 2.52 - SHERIFF'S RESERVE CORPS - Reserved

#### Chapter 2.56 - COMMUNITY DISTRICTS AND COMMUNITY COUNCILS

##### 2.56.010 - Purpose.

The purpose of establishing community districts and recognizing community councils in the incorporated area of the City is to provide a mechanism by which a geographical area may be identified as a neighborhood for purposes of formulating and presenting recommendations on actions within the authority of the City which affect that geographical area by force of law or practice.

##### 2.56.020 - Establishment.

- A. Individual community councils are created by private citizens as private corporations, associations or otherwise, and are not created by Millcreek City. Privately created community councils may be recognized by Millcreek City as provided in this chapter.
- B. For purposes of this chapter, the incorporated territory of the City shall be divided into community council districts, as described in Section 2.56.030.

##### 2.56.030 - District boundaries.

Community district boundaries shall be defined as those boundaries shown on maps filed with the City planning division, together with appropriate written descriptions. Such maps and descriptions are made by reference a part of this chapter as if fully described herein. The boundaries shall conform as closely as possible to natural boundaries, while maintaining where possible the integrity of political entities such as voting districts, school districts and service districts.

##### 2.56.040 - Amendment of districts.

- A. Community districts may from time to time have their number, area and/or boundaries amended as provided herein. Amendments may be initiated by an affected community council or the City Council by giving written notification of the proposed amendment to the affected community councils and the City Council. The City Council shall hold a public hearing on the amendment request not less than sixty and no more than seventy-five days after written notice is given to all community councils and shall report its findings to the affected community councils not more than fourteen days following such hearing. Amendments shall be effective only upon the concurrence of all community councils affected by the change and by the City Council.

- B. Subsection A of this section notwithstanding, the City Council may amend the boundaries of community council districts for purposes of community council participation under this chapter whenever it determines that a boundary change is in the public interest. In determining whether an amendment should be made to community district boundaries, the City Council may request the association of community councils hold a preference election in the area that would be affected by the proposed community district boundary change. The election shall be held pursuant to the notice and time requirements set forth in Section 2.56.045A.

#### 2.56.045 - Boundary disputes.

The provisions of Section 2.56.040 notwithstanding, where community districts shown on the community district map have overlapping boundaries, such district boundaries may be amended by the City Council to eliminate the overlapping boundaries by either of the following methods:

- A. The City Council may request that the association of community councils or the City planning commission hold an election in the overlapping area to determine in which community district the residents and property owners within such area desire to belong. In holding such an election the City Council shall create geographic voting districts within the overlapping area. Such election shall be held within ninety days of the City Council's request. Notice of the time and place of the election shall be published at least fifteen days prior to the election date in a newspaper having general circulation in the City. The electorate shall be comprised of all registered voters within the overlapping boundary area. If the City Council district has a substantial proportion of developed land owned by persons who reside elsewhere such as summer recreational properties, the City Council may permit voting by property owners, in addition to registered voters.

Within ten days after the election, the association of community councils shall submit the results of the election to the City Council. Thereafter the City Council shall amend the boundary of the community districts to eliminate the overlapping boundaries in accordance with the results of the election within the geographic voting districts. When elimination of the overlapping boundaries in accordance with the election results would create non-contiguous community district boundaries, the City Council may adjust the community district boundaries to prevent such a result.

- B. The City Council may amend the community district boundaries to eliminate the overlapping boundaries in a manner that it determines to be fair and equitable. Prior to making any such community district boundary change on the map, the City Council shall hold a public hearing thereon. Written notice of the time and place of the hearing shall be given to the affected community councils at least fifteen days prior to the date of the hearing.

#### 2.56.050 - Community councils—Representation.

- A. The citizens of each community council district shall have the opportunity to create a community council consisting of members elected pursuant to the requirements of Section 2.56.070 and pursuant to the Council's bylaws. (Model community council bylaws shall be available from the association of community councils.) All members of community councils shall serve without compensation. Any member of the electorate in a community district may serve on such district's community council. Council bylaws shall provide for fixed council member terms. Terms shall not exceed four years. No individual shall serve concurrently on a community council and a township planning and zoning board or on more than one community council. Vacancies on a community council shall be filled in accordance with the community council's bylaws. All community council meetings shall be open to the public.
- B. Citizens in a community district not presently represented by a community council but desiring such representation shall draw up and submit a set of bylaws to the attorney for review. Community councils may be created by citizens as private, nonprofit corporations, associations or as other entities as determined appropriate by those citizens. Subsequent to approval of the bylaws by the City attorney, an election shall be held for the purpose of electing a community council, pursuant to the requirements of Section 2.56.070.

- C. All community council bylaws, articles of incorporation, meetings, activities, elections, and other functions shall abide by the minimum requirements of this chapter or the community council will not be entitled to the various services, benefits, and status set out herein.

#### 2.56.060 - Community councils—Participation.

The citizens of any community district may by choice decline to create a community council or forego representation by a community council under the terms of this chapter.

#### 2.56.065 - Community council hearings.

The community councils shall conduct open and public hearings and meetings and shall permit interested persons to attend and participate in those meetings in accordance with applicable council bylaws and regulations.

#### 2.56.070 - Community councils—Election of members.

- A. Members of community councils shall be elected by nonpartisan secret ballot. Nomination and election procedures, notice requirements and terms of office shall be specified in the bylaws of each council.
- B. Community council bylaws shall include at least the following minimum requirements regarding elections:
  - 1. All elections of council representatives must be free and open to all registered voters in the community council area provided, no individual may vote more than once in any given election. Upon the approval of the City Council, voting may be open to property owners in any community council district where a substantial proportion of the developed land is owned by persons who reside elsewhere, such as summer recreational properties.
  - 2. Elections for community council representatives shall be held only on the first Tuesday after the first Monday of November in each even numbered year.
  - 3. At least sixty days prior to an election the community council shall designate one community council member or designee, who is not standing for re-election, to serve as the election officer for the year in which a community council election is conducted and shall inform the City's community council liaison in writing, of the appointment and the election officer's name, address, and telephone number. That election officer may solicit the assistance of community council members or other persons not standing for re-election to serve as assistants.
  - 4. Notices and flyers shall be prepared, posted and published sufficiently in advance of any community council election to adequately inform prospective council candidates of election and candidate nomination procedures.
  - 5. At least thirty days prior to an election the community council shall provide an appropriate notice of each election. The notice shall be posted in at least one prominent place in each voting district in the community council area and forwarded to the City community's council liaison. Notices shall include the date, times and polling place locations for the community council election. The City clerk, with the assistance of the City community council liaison, shall publish notice of the election in a newspaper of general circulation at least two weeks before election day.
  - 6. The community council shall, in its bylaws, institute a fair and equitable candidate nomination process, to be administered by the election officer and designed to freely permit and encourage citizens to become candidates for community council office. All candidates shall be registered voters in the community council area. Upon the approval of the City Council, candidates may be property owners in any community council district where a substantial proportion of the developed land is owned by persons who reside elsewhere, such as summer recreational properties.
  - 7. Community councils shall prepare a sufficient number of ballots listing candidates for community council office. Candidates shall be listed in alphabetical order, by last name, and the ballot shall

contain only the names of candidates. No titles or indication of incumbency shall appear on the ballot. Write-in candidates may be permitted as provided by the bylaws.

8. The community council shall put in place and enforce appropriate regulations to ensure the secrecy and security of the voting process, including providing for a secret vote, secure ballot boxes, and a secure and orderly vote tabulation process supervised by the election officer. No proxy voting shall be permitted.
  9. Within seven days after an election, the election officer shall prepare an official written declaration of election results, including total votes cast for each candidate, and shall cause the declaration to be filed with the clerk of the City Council. A list of all community council members, holding office as of January 1st, shall be provided to the City's community council liaison not later than December 15th of the previous year.
- C. The City Council may assist and monitor community council elections to ensure compliance with this section when the City Council deems it necessary or appropriate.
  - D. The City Council may, for good cause shown, waive election bylaw requirements upon written community council request.

#### 2.56.080 - Association of community councils - Reserved

#### 2.56.090 - Community councils—Municipal services recommendations.

- A. Each community council shall be encouraged to develop priorities regarding municipal services and facilities for its community district. These recommendations should be communicated in writing to the mayor and City Council on an annual basis for use in policy development and in the budget process. Community councils are encouraged to arrive at such recommendations pursuant to duly held and well-publicized public hearings in each community district.
- B. The City Council/mayor shall direct all department and division directors, and encourage elected officials and appointed board members to provide key personnel on a regular and continuing basis as staff and resource persons to community councils. The Mayor shall assign or designate a City employee to act as City liaison with the community council and with its association.

#### 2.56.100 - Community councils—Planning and zoning recommendations.

- A. The planning and development services division shall submit to the chairman and the designated planning and zoning member of each community council copies of the planning commission public meeting agendas, applications for text changes to the zoning ordinance, zoning or conditional use applications pertaining to territory located within each community district, and applications for extraordinary relief and exceptions pursuant to Section 19.71.050, Millcreek City Code of Ordinances, 2001. Community councils are encouraged to make recommendations concerning such applications to the planning commission. On request of the chairman or designated planning and zoning representative of a community council in writing, by telephone or in person at a meeting during which an application is being considered, the planning commission shall continue the application for a period not to exceed four weeks from the first meeting such application is heard by the planning commission, or until the next community council meeting, whichever occurs first, to allow the community council to consider the application at its own meeting. The above procedure may be amended by mutual agreement between the planning commission and the community councils individually to eliminate frivolous or unnecessary delays.
- B. The staff of the planning and development services division shall act as the staff to each community council on planning and zoning matters, and shall also arrange meetings between the applicants and community councils when so requested. The public works department shall institute policies to aid in this process and to assure that undue delay shall not result to an applicant by virtue of such procedures.

- C. Each community council shall have on file with the planning and development services division a current schedule of its meeting times, places and dates, and the names, addresses and phone numbers of the current community council chairman and the designated planning and zoning representative.

#### 2.56.110 - Budget.

- A. The City Council may budget monies annually for the community councils in Millcreek which may be spent for administrative costs, including, but not limited to, legal notices, elections, newsletters, computers and software, and other office equipment, City-sponsored community events and community council outreach activities or events, postage, stationary, and duplication costs. Funding may be provided pursuant to budgeted amounts and upon direction of the City Council.
- B. Community councils receiving funds from the City shall establish a fiscal year in their bylaws and make written budget requests, if any funding is requested, to the City Council by March 1 of each year. Within ninety days following the close of the community council's fiscal year, it shall file a detailed financial statement with the clerk of the City and the City's community council liaison. The statement shall set out community council revenues and expenditures for the prior year and shall be in a form approved by the City auditor.

#### 2.56.120 - City Council participation.

The City Council shall schedule at least one meeting annually during the month of January with the community councils for the purposes of receiving recommendations on policy, budget and other priorities established in each community council district by the representative community council.

#### 2.56.130 - Volunteer status—Indemnification.

Community council members shall be considered volunteers to the City and not employees, officials or officers of the City. Community council members shall be defended and indemnified by the City pursuant to the provisions of the Utah Governmental Immunity Act in any civil action which may arise within the course and scope of performance of their duties under this chapter.

#### Chapter 2.58 - Sister City Program—Reserved

#### Chapter 2.60 - CONVENTION FACILITIES ADVISORY BOARD - Reserved

#### Chapter 2.70 - QUASI-JUDICIAL FUNCTIONS STANDARDS OF CONDUCT

##### 2.70.010 - Purpose.

The City Council of Millcreek recognizes the importance of guaranteeing both the reality and perception that all individuals appearing before quasi-judicial officials or bodies in Millcreek City are afforded a full, fair and impartial hearing on the merits. The Council finds it in the best interests of the citizens of Millcreek City to provide uniform standards of conduct for all members of quasi-judicial bodies. To that end, the City Council of Millcreek City hereby provides uniform standards of conduct for individuals performing quasi-judicial functions in Millcreek City.

##### 2.70.020 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively described to them below:



A "conflict of interest" exists when:

- A. A quasi-judicial official has a direct or indirect financial interest which will be or is reasonably likely to be affected by the outcome of the matter currently pending before the official; or
- B. Resolution of the matter before the official will or is reasonably likely to create a material personal gain or provide a gain or advantage to relatives, friends, agents, business associates, or to groups and associations which hold some share of the official's loyalty. Membership in a group or association alone shall not be considered a conflict of interest with respect to any matter affecting such group or association unless a reasonable and informed person would conclude that such membership in itself would prevent an objective quasi-judicial consideration of the matter.

"Ex-parte contact or communication" means contact by one side only of a matter before an individual, board or council when said individual, board or council is acting in a quasi-judicial capacity and the contact is outside of the hearing or official proceedings in the matter.

"Interested party" in a quasi-judicial proceeding means any applicant, party, representative or agent of an applicant or party, any person or entity who may claim to be adversely affected by the resolution of a matter or any issue of fact or law related to a matter, and any person or entity who claims a substantial property interest which could be adversely affected by the resolution of a matter or an issue of fact or law related to a matter.

"Legislative capacity" means activity by a board or council when involved with the framing and enactment of ordinances and policies for the City. Included without limitation in such category is the adoption of or amendment to the Millcreek City code of ordinances, the Citywide policies and procedures of Millcreek City, the administrative rules of the Millcreek City board of equalization, the personnel policies and procedures of Millcreek City adopted by either the City career service council or the civil service commission of Millcreek City, the Millcreek City planning and zoning general plan, specific zoning ordinances and the re-zoning of individual properties, and rules or policies adopted by any board, committee or council of Millcreek City authorized by law to engage in legislative activities.

"Quasi-judicial capacity" means the role of an individual, board, or council acting to investigate facts and draw conclusions therefrom as a basis for its official actions and the exercise of discretion of a judicial nature is a matter which is currently before the individual, board or council, or which would come under the individual's, board's or council's jurisdiction pursuant to an appeal of an administrative determination. Quasi-judicial officials or bodies may include the City Council, the City board of equalization, the mayor or designee, any hearing officer employed by Millcreek City, the City planning commission, any township planning commission, the career service council, the civil service commission, the board of health, the property tax committee, and any other individual, hearing board, committee, council or board of the City when acting in a quasi-judicial capacity. In determining whether the individual or entity is quasi-judicial in nature, the nature of the activity engaged in shall control over the title of the individual or entity or the other duties assigned to or otherwise engaged in by the individual or entity.

#### 2.70.030 - Conflict of interest.

- A. Any official acting in a quasi-judicial capacity with or reasonably likely to have a conflict of interest with regard to an applicant or its agent who has a matter before the official, must declare his or her conflict of interest and the nature of the interest giving rise to the conflict publicly prior to discussion of the matter and enter the same upon the record of the proceeding. The official must abstain from deliberating or voting on the matter and may not discuss the matter either publicly or privately with any other official participating in the proceeding. The vote of an official experiencing a conflict of interest who fails to disqualify himself shall be disallowed.
- B. A conflict of interest may exist under this section although an official may not believe that an actual conflict exists. Therefore, any official who has a question as to whether a conflict of interest exists under this section with respect to his or her participation or the participation of another official participating in the proceeding should raise the matter with the other officials participating in the proceeding at a public meeting and with the district attorney's office in order that a determination may be made as to whether a conflict of interest exists.

#### 2.70.040 - Gifts and favors.

No quasi-judicial official, relative or agent of a quasi-judicial official shall accept any gift, favor or advantage from any party, individual, or from their agents or representatives if the party or individual has a matter currently before the quasi-judicial body or in circumstances when the quasi-judicial official has knowledge that said party or individual intends to or commonly brings matters before the quasi-judicial official for adjudication. Gifts, favors or advantages shall not include a meal with a value of less than twenty-five dollars provided in conjunction with a meeting at which the subject of a quasi-judicial proceeding is discussed. The meal and the communication shall be disclosed pursuant to Section 2.70.050(B). Campaign contributions shall be subject to all other provisions of applicable law but shall not be prohibited under this section.

#### 2.70.050 - Ex-parte communication.

- A. No quasi-judicial official shall initiate contact or initiate discussion with any party or the representative or agent of any party or a person who may claim to be "adversely affected" by the resolution of the matter with respect to an issue of law or fact in issue on a matter which is either currently before the quasi-judicial official for adjudication or which is reasonably likely to come before the quasi-judicial official unless the official provides notice to all parties and an opportunity to participate. Any such discussion, after notice and with an opportunity for participation by the public or other affected parties, shall occur in a meeting duly convened and noticed pursuant to the Utah Open Meetings Act and shall be made a matter of the official record of the proceeding.
- B. Any quasi-judicial official who receives an ex-parte communication with respect to a matter which is either currently before the official or reasonably likely to come before the official shall, at the next public meeting following the communication, place into the official minutes or record the following:
  - 1. The name of the party making the communication;
  - 2. If the communication was in writing, a copy of the communication;
  - 3. If the communication was oral, a summary of the communication;
  - 4. The date of the communication.

Following disclosure of the communication at the hearing on the matter, the public and opposing parties shall be given an opportunity to submit written responses to the communication prior to the quasi-judicial official or entity closing the evidentiary phase of the proceedings. All ex-parte communication, with the exception of discussions of procedural matters such as the dates and times of hearings, is prohibited after the conclusion of the evidentiary phase of the proceedings.

Engaging in prohibited ex-parte communications or the failure of a quasi-judicial official to disclose a communication and place the communication or a summary of it in the public record shall be grounds for voiding the official's vote on the matter.

- C. An ex-parte contact or communication does not include:
  - 1. Discussions of procedural matters such as the dates and times of hearings which are unrelated to the merits of the appeal, proceeding or motion;
  - 2. Communications by the quasi-judicial official, whether in person or otherwise, with City administrative staff who do not constitute representatives of a party to the proceeding, district attorney staff not representing a party to the proceeding, or council staff.

#### 2.70.060 - Other provisions applicable.

The standards of conduct provided for by this chapter are in addition to other legal requirements imposed on quasi-judicial officials and bodies of Millcreek City including the City Officers and Employees Disclosure Act, the Governments Records and Management Act and other Millcreek City ordinances and policies applicable specifically to the quasi-judicial body.

Chapter 2.71 - CITY REDISTRICTING COMMISSION - Reserved

Chapter 2.72A - REVISED CAMPAIGN FINANCING DISCLOSURE

2.72A.101 - Definitions.

As used in this chapter:

"Address" means the number and street where an individual resides or where a reporting entity has its principal office.

"Candidate" means any person who:

1. Files a declaration of candidacy for a public office; or
2. Receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

"Chief election officer" means the City clerk.

"Contractor" means, for purposes of this chapter, any person, business, corporation, or other entity that executes a written agreement with the City for the acquisition or management of goods, services, or property, or the disposal of surplus goods, whether personal, real, or intangible, including all amendments, extensions, or addendums to the existing contract.

"Contribution" means:

1. Any of the following when done for political purposes:
  - a. A gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;
  - b. An express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;
  - c. Any transfer of funds from another reporting entity to the filing entity;
  - d. Compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity; and
  - e. Goods or services provided to or for the benefit of the filing entity at less than fair market value.
2. "Contribution" does not include:
  - a. Services provided without compensation by individuals volunteering a portion or all of their time or talents on behalf of the filing entity;
  - b. Money lent to the filing entity by a financial institution in the ordinary course of business; or
  - c. Volunteering use of assets for the benefit of a candidate or a campaign committee that do not exceed fifty dollars.

"City office" means the offices of City mayor, City Council member, City treasurer, City sheriff, City clerk, City auditor, City recorder, City district attorney, City surveyor or City assessor.

"City office candidate" means a person who:

1. Files a declaration of candidacy for a City office; or
2. Receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a City office.

"Detailed listing" means:

1. For each contribution:
  - a. The name and address of the individual or source making the contribution;
  - b. The amount or value of the contribution; and
  - c. The date the contribution was made.
2. For each expenditure:
  - a. The amount of the expenditure;
  - b. The person or entity to whom it was disbursed;
  - c. The specific purpose, item, or service acquired by the expenditure; and
  - d. The date the expenditure was made.

"Election" means any general, special or primary election held pursuant to and as defined and provided by Titles 11.20, or 20A, Utah Code Annotated, or by any other applicable provision of state law or City ordinance, and conducted by the City.

"Election cycle" means:

1. The period following the general election but prior to the next political convention in any year in which the candidate has filed to run for City elected office;
2. The period following a political convention but prior to the primary election in any year in which the candidate has filed to run for City elected office;
3. The period following a primary election but prior to a general election in any year in which the candidate has filed to run for City elected office.

"Expenditure" means:

1. Any disbursement from contributions, receipts, or from the separate bank account required by this chapter;
2. A purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
3. An express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;
4. Compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;
5. Transfer of funds between the filing entity and a candidate's personal campaign committee; or
6. Goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.
7. "Expenditure" does not include:
  - a. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;
  - b. Money lent to a reporting entity by a financial institution in the ordinary course of business; or
  - c. Volunteering use of assets for the benefit of a candidate or a campaign committee that do not exceed fifty dollars.

"Filing entity" means the reporting entity that is filing a report required by this chapter.

"Financial statement" includes any summary report, interim report, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter.

"Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee.

"Incorporation" means the process established by Utah Code Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

"Incorporation election" means the election authorized by Utah Code Section 10-2-111.

"Incorporation petition" means a petition authorized by Utah Code Section 10-2-109.

"Individual" means a natural person.

"Interim report" means a report identifying the contributions received and expenditures made since the last report.

"Local school board office candidate" means a person residing within the City who:

1. Files a declaration of candidacy to become a member of a local school board; or
2. Receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to become a member of a local school board.

"Officeholder" means a person who holds a public office.

"Party committee" means any committee organized by or authorized by the governing board of a registered political party.

"Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, labor unions, and labor organizations.

"Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

"Political action committee" means:

1. An entity, or any group of individuals or entities within or outside this City, that solicits or receives contributions from any other person, group, or entity or makes expenditures for political purposes. A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.
2. "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.
3. "Political action committee" does not mean:
  - a. A registered political party or party committee or political party auxiliary;
  - b. Any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;
  - c. An individual;
  - d. A corporation using its own funds, except a corporation whose intended purpose is to act as a political action committee;
  - e. Individuals who are related and who make contributions from a joint checking account; or
  - f. A personal campaign committee.

"Political convention" means a City political convention held by a registered political party to select candidates.

"Political issues committee" means:

1. An entity, or any group of individuals or entities within or outside this City, that solicits or receives donations from any other person, group, or entity or makes expenditures to influence, or to intend to influence, directly or indirectly, any person to:
  - a. Assist in placing a Citywide ballot proposition on the ballot, assist in keeping a Citywide ballot proposition off the ballot, or refrain from voting or vote for or vote against any Citywide ballot proposition; or
  - b. Sign or refuse to sign a petition for a proposed incorporation, initiative, referendum, or change of City government or refrain from voting, vote for, or vote against a proposed incorporation, initiative, referendum, or change of City government.
2. "Political issues committee" does not mean:
  - a. A registered political party or a party committee or political party auxiliary;
  - b. Any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;
  - c. An individual; or
  - d. Individuals who are related and who make contributions from a joint checking account.

"Political issues contribution" means:

1. Any of the following:
  - a. A gift, subscription, unpaid or partially unpaid loan, advance or deposit of money or anything of value given to a political issues committee;
  - b. An express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;
  - c. Any transfer of funds received by a political issues committee from a reporting entity;
  - d. Compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and
  - e. Goods or services provided to or for the benefit of a political issues committee at less than fair market value.
2. "Political issues contribution" does not include:
  - a. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee;
  - b. Money lent to a political issues committee by a financial institution in the ordinary course of business; or
  - c. Volunteering use of assets for the benefit of a political issues committee that do not exceed fifty dollars.

"Political issues expenditure" means:

1. Any of the following:
  - a. Any payment from political issues contributions made for the purpose of influencing the approval or the defeat of a Citywide ballot proposition;
  - b. A purchase, payment, distribution, loan, advance, deposit, or gift of money made for the purpose of influencing the approval or the defeat of a Citywide ballot proposition;

- c. An express, legally enforceable contract, promise, or agreement to make any political issues expenditure;
  - d. Compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or
  - e. Goods or services provided to or for the benefit of another reporting entity at less than fair market value.
2. "Political issues expenditure" does not include:
- a. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee;
  - b. Money lent to a political issues committee by a financial institution in the ordinary course of business; or
  - c. Volunteering use of assets for the benefit of a political issues committee that do not exceed fifty dollars.

"Political party auxiliary" means the City subdivision of a registered political party organized in accordance with state law.

"Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

"Primary election" means any regular primary election held under the election laws.

"Public office" means the office of City mayor, City Council member, City treasurer, City sheriff, City clerk, City auditor, City recorder, City district attorney, City surveyor, City assessor, or local school board member.

"Publicly identified class of individuals" means a group of fifty or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial report they are listed.

"Receipts" means contributions.

"Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the City clerk's office.

"Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the City clerk's office.

"Registered political party" means an organization of voters that:

- 1. Participated in the last regular general election and polled a total vote equal to two percent or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or
- 2. Has complied with the petition and organizing procedures of set forth in Utah statutes.

"Report" means a verified financial statement.

"Reporting entity" means a candidate, a candidate's personal campaign committee, an officeholder and a party committee, a political action committee, and a political issues committee.

"Statement of organization" means an informational document filed by a reporting entity that complies with the requirements of this chapter.

"Source" means:

- 1. The person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

2. For political action committees, "source" means the political action committee as an entity, not the contributors to the political action committee.

"Summary report" means the year-end report containing the summary of a reporting entity's contributions and expenditures.

"Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

#### 2.72A.103 - Reports—Form of submission—Notification by clerk—Legal holidays.

- A. 1. Ten days before a financial statement or report from a City office candidate, local school board office candidate, office holder, political action committee or political issues committee is due under this chapter, the City clerk shall inform those candidates and entities by postal mail or, if requested by the reporting entity, by electronic mail:
  - a. That the report is due; and
  - b. The date that the report is due.
2. In addition to the information required by subsection (A)(1), ten days before the interim reports for candidates are due, the City clerk shall inform the candidate that, if the report is not received in the City clerk's office by five p.m. on the date that it is due, voters will be informed that the candidate has been disqualified and any votes cast for the candidate will not be counted.
3. In addition to the information required by subsection (A)(1) and in the same mailing, ten days before the interim reports or verified financial statements for entities are due, the City clerk shall inform the entity, candidate, officeholder that, if the report is not received in the City clerk's office by the date that it is due, the entity, candidate or officeholder may be guilty of an infraction for failing to file the report or statement.
- B. Persons or entities submitting reports required by this chapter may submit them:
  1. On paper, printed, typed or legibly handwritten or hand-printed;
  2. Via fax; or
  3. Upon an e-mail system being created by the City clerk, via electronic mail according to specifications established by the chief election officer.
- C. A report is considered filed if:
  1. It is received in the chief election officer's office no later than five p.m. on the date that it is due;
  2. It is received in the chief election officer's office with a postmark three days or more before the date that the report was due; or
  3. The candidate, or entity has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.
- D. Whenever the date required for any filing in the City clerk's office before five p.m. required by this chapter falls on a legal holiday or a Saturday or Sunday, the filing may be delayed until five p.m. on the next City working day.

#### 2.72A.104 - Limitations on contributions.

- A. Cash Contributions. No person shall make total cash contributions exceeding one hundred dollars during any calendar year to a filing entity, unless that contribution is made in the form of a personal or certified check, bank draft or money order identifying the donor.
- B. Anonymous Contributions. The acceptance of anonymous contributions is prohibited. Any anonymous contributions received by a filing entity shall be transmitted to the City treasurer for deposit in the City general fund.



- C. Proxy Contributions. No person shall make a contribution in the name of another person or make a contribution with another person's funds in their own name, and no filing entity shall knowingly accept such contributions. No person shall solicit another person to make a contribution with another person's or funds other than in their own name. Contributions made by registered political parties or reporting entities may be made and received so long as the name of the party or filing entity is imprinted on any check or other means of contribution and is listed in applicable financial statements made pursuant to this chapter.
- D. Contributions by Contractors. A person, business, corporation or other entity that is a contractor with the City is prohibited from making a total of contributions that exceed one hundred dollars to any candidate for City office during the term of contract and during a single election cycle as defined in this section. For purposes of this section, a person or entity shall be considered a contractor and doing business with the City if it is engaged in any contract with the City on the date of the contribution or it has contracted with the City at any time during a one-year period prior to the date of the contribution. Any person, business, corporation or other entity making contributions of one hundred dollars or more to any City candidate shall be prohibited from entering into a contract for at least one year after the date the contribution was made. This provision shall only apply to contracts in excess of ten thousand dollars and shall not apply to contracts entered into by the City pursuant to existing statewide contracts, small-cost purchases, and expedited contracts when the City Council waives the requirements of this section as to the expedited contract. This limitation on contributions by contractors as well as the penalties for violating this subsection set forth in Section F below do not apply to local school board candidates.
- E. Contribution Caps. No donor shall make contributions to a City candidate in excess of six thousand dollars during the three election cycles defined in Section 2.72A.101. If the City candidate ceases to be a City candidate for any reason, contributions received from a donor totaling in excess of two thousand dollars per election cycle completed by the City candidate shall be refunded to the donor within ten days of the termination of the City candidacy. A City candidate filing the campaign financial statements or reports required by this chapter shall specifically identify each donor contribution received that is in excess of two thousand dollars and shall specifically identify the campaign contributions refunded pursuant to this section.
- F. Penalties.
  - 1. If a contribution or contributions are received without a candidate's knowledge of a violation of this section, the candidate may return the contribution without penalty if the contribution is returned within ten days after the candidate knows of the violation, by way of notification from the City clerk.
  - 2. If any contribution is made in violation of the prohibition on contributions by contractors, any existing City contract with the contractor may be voided, at the discretion of the City mayor or council. Any contractor who knowingly makes a contribution or contributions in violation of this provision shall be guilty of a Class B misdemeanor.
  - 3. If any contribution is made in violation of the prohibition on contributions by contractors, the official to whom that contribution is made must return the contribution. Any elected official who knowingly takes a contribution or contributions which are not returned under subsection (F)(1) of this section is in violation of this provision and may be guilty of a Class B misdemeanor.

#### 2.72A.105 - Political party contributions.

- A. State and local party committees are subject to the same monetary contribution limits as all other donors.
- B. In addition to direct monetary contributions, state and local party committees may make in-kind contributions of a maximum of ten thousand dollars per candidate for City elected office per election cycle. Independent expenditures made by a state or local party committee not coordinated with a candidate for City elected office are not subject to the in-kind limit. For the purposes of this section, coordination means consulting, cooperating, or working in concert with or at the request or suggestion

of a candidate or party committee. Expenditures made in coordination with a candidate or party committee are treated as in-kind contributions to that candidate or party committee. They are subject to all the limits and disclosure requirements that apply to such contributions.

- C. If the names and/or likenesses (including photographs) of multiple candidates are used in any campaign materials or activities paid for by state and local party committees, the amount of the in-kind contribution to be reported and subject to the in-kind contribution limit, shall be determined by equally dividing the total expenditure by the number of candidates named in the material.

2.72A.201 - City office candidate, local school board office candidate and officeholder—Separate bank account for campaign funds.

- A.
  - 1. Each City office candidate, local school board office candidate or the candidate's personal campaign committee or officeholder shall deposit each contribution received in one or more separate campaign accounts in a financial institution.
  - 2. The City office candidate, the local school board office candidate or the candidate's personal campaign committee or officeholder may use the monies in those accounts only for political or charitable purposes.
- B. A City office candidate, a local school board office candidate or the candidate's personal campaign committee or officeholder may not deposit or mingle any contributions received into a personal or business account.
- C. If a person who is no longer a City office candidate, local school board office candidate or officeholder chooses not to expend the monies remaining in his or her campaign account, the person shall continue to file the year-end summary report required by Section 2.72A.203 until the statement of dissolution and final summary report required by Section 2.72A.205 are filed with the City clerk.
- D. Campaign account bank statements shall be provided to the City clerk or district attorney upon request for verification purposes in the event of an official complaint or discrepancy in reporting.
- E.
  - 1. As used in this Subsection E, "account" means an account in a financial institution:
    - a. That is not described in the above Subsections A, B, C or D; and
    - b. Into which or from which a person who, as a candidate for an office, other than a City office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a City office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.
  - 2. A candidate for City office shall include on any financial reports filed in accordance with this section a contribution deposited in or an expenditure made from an account:
    - a. Since the last financial report filed; or
    - b. That has not been reported under a statute or ordinance that governs the account.

2.72A.202 - City office candidate, local school board office candidate and officeholder—Personal campaign committee required.

- A.
  - 1.
    - a. Each City office candidate, local school board office candidate or officeholder shall select no more than one personal campaign committee, consisting of one or more persons, to receive contributions, make expenditures, and file reports connected with the candidate's campaign.
    - b. A City office candidate or local school board office candidate may serve as his or her own campaign committee.
  - 2. Except for expenses made by a registered political party to benefit a party's candidates generally, a City office candidate, local school board office candidate or officeholder or other person acting in concert with or with the knowledge of the City office candidate, local school board office

candidate or officeholder may not receive any contributions or make any expenditures on behalf of a City office candidate, local school board office candidate or officeholder other than through a personal campaign committee established under this section.

- B. 1. Before any City office candidate, any local school board office candidate or officeholder shall receive contributions in excess of two hundred fifty dollars or make expenditures in excess of two hundred fifty dollars on behalf of any candidacy, the City office candidate, local school board office candidate or officeholder shall file a written statement of organization signed by the candidate or officeholder or authorized member of the candidate's or officeholder's personal campaign committee with the City clerk that:
    - a. Informs the City clerk that the City office candidate's, local school board office candidate's or officeholder's personal campaign committee has been selected;
    - b. Provides the name, address and title of each member and the secretary of the committee. If a personal campaign committee consists of only one person, that person shall be deemed the secretary.
  - 2. A City office candidate, a local school board office candidate, the officeholder or the candidate's or officeholder's personal campaign committee may not make any expenditures above two hundred fifty dollars on behalf of the candidate until the statement has been filed.
  - 3. A City office candidate, a local school board office candidate or office holder may revoke the selection of any member of the campaign committee by:
    - a. Revoking that person's appointment or selection in writing;
    - b. Personally serving the written revocation on the member whose selection is revoked; and
    - c. Filing a copy of the written revocation with the City clerk.
  - 4. a. The City office candidate, local school board office candidate or officeholder may select a replacement to fill any vacancy on the campaign committee.
  - b. The City office candidate or local school board office candidate shall file that replacement's name and address with the City clerk.
- C. A member of a City office candidate's, local school board office candidate's or officeholder's personal campaign committee may not make an expenditure of more than one thousand dollars unless the City office candidate, local school board office candidate, officeholder or secretary of the personal campaign committee authorizes the expenditure in writing.
  - D. A City office candidate, local school board office candidate, officeholder or the candidate's or officeholder's personal campaign committee may not make any expenditures prohibited by law.

2.72A.203 - City office candidate, local school board office candidate, and officeholder—Financial reporting requirements—Year-end summary report.

- A. Each City office candidate, local school board office candidate or officeholder shall file a summary report by January 31st of each year.
- B. 1. Each summary report shall include the following information as of December 31st of the previous year:
  - a. The net balance of the last summary report, if any;
  - b. A single figure equal to the total amount of receipts reported on all interim reports, if any;
  - c. A single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the election year;
  - d. A detailed listing of each contribution received since the last summary report that has not been reported in detail on an interim report;

- e. For each nonmonetary contribution, the fair market value of the contribution;
  - f. A detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;
  - g. For each nonmonetary expenditure, the fair market value of the expenditure; and
  - h. A net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.
2. a. For all single contributions of fifty dollars or less, a single aggregate figure may be reported without separate detailed listings.
  - b. Two or more contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.
  - c. Individual donors who contribute an aggregate of two hundred dollars or more over the duration of all three election cycles to a single candidate shall disclose, and candidates shall report, with the contribution, their occupation and employer. Donors shall continue to disclose their occupation and employer with every subsequent contribution made to a single candidate upon reaching the two hundred dollars aggregate, and candidates shall continue to report same.
3. In preparing the report, all receipts and expenditures shall be reported as of December 31st of the previous year.
- C. 1. As used in this Subsection C, "account" means an account in a financial institution:
- a. That is not described in the above Subsection B; and
  - b. Into which or from which a person who, as a candidate for an office, other than a public office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a public office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.
2. Each public office candidate or officeholder with an account shall include on the summary report a contribution deposited in or an expenditure made from an account:
    - a. Since the last financial report filed; or
    - b. That has not been reported under a statute or ordinance that governs the account.
- D. The summary report shall contain a paragraph signed by an authorized member of the City office candidate's, local school board office candidate's, or officeholder's personal campaign committee or by the City office candidate, local school board office candidate or officeholder certifying that, to the best of the signer's knowledge, all receipts and all expenditures have been reported as of December 31st of previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

**2.72A.204 - City office candidate, local school board office candidate and officeholder—Financial reporting requirements—Interim reports.**

- A. Each City office candidate, local school board office candidate or officeholder shall file an interim report before five p.m. on the following days in any year in which the candidate or officeholder has filed a declaration of candidacy for a public office for that year:
1. For the period ending March 31st, the report shall be due April 5th;
  2. For the period ending eight days before the primary election, the report shall be due seven days before the primary election date;
  3. For the period ending September 10th, the report shall be due September 15th; and

4. For the period ending eight days before the regular general election, the report shall be due seven days before the regular general election date.
- B. Each interim report shall include the following information:
1. The net balance of the last summary report, if any;
  2. A single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;
  3. A single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;
  4. A detailed listing of each contribution received since the last summary report that has not been reported in detail on a prior interim report;
  5. For each nonmonetary contribution, the fair market value of the contribution;
  6. A detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;
  7. For each nonmonetary expenditure, the fair market value of the expenditure;
  8. A net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and
  9. A summary page in the form required by the City clerk that identifies:
    - a. Beginning balance;
    - b. Total contributions during the period since the last statement;
    - c. Total contributions to date;
    - d. Total expenditures during the period since the last statement; and
    - e. Total expenditures to date.
- C.
1. For all individual contributions of fifty dollars or less, a single aggregate figure may be reported without separate detailed listings.
  2. Two or more contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.
  3. Individual donors who contribute an aggregate of two hundred dollars or more over the duration of all three election cycles to a single candidate shall disclose, and candidates shall report, with the contribution, their occupation and employer. Donors shall continue to disclose their occupation and employer with every subsequent contribution made to a single candidate upon reaching the two hundred dollars aggregate, and candidates shall continue to report same.
- D.
1. As used in this Subsection D, "account" means an account in a financial institution:
    - a. That is not described in the above Subsection B; and
    - b. Into which or from which a person who, as a candidate for an office, other than a public office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a public office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.
  2. Each City office candidate, local school board office candidate or officeholder with an account shall include on the interim report a contribution deposited in or an expenditure made from an account:
    - a. Since the last financial report filed; or
    - b. That has not been reported under a statute or ordinance that, governs the account

#### 2.72A.204.5 - Small budget campaigns.

- A. A City candidate, local school board office candidate, officeholder or their respective personal campaign committee, which expects neither the aggregate contributions to be received, nor the aggregate expenditures to be made, by or on behalf of the City candidate, local school board office candidate, officeholder or their respective committee, to exceed two thousand dollars total amount during the calendar year may file, with the City clerk, a certificate to that effect. The certificate must be filed with the City clerk before five p.m. on April 5th. Entities which choose to file a certificate and which do not exceed the two thousand dollar limit need only file with the City clerk verified financial statements before five p.m. seven days prior to the regular general election, and before five p.m. on January 31st following the general election.
- B. At any time following the filing of a certificate with the clerk, if either the aggregate contributions or aggregate expenditures exceed two thousand dollars the entity shall, within seven days after exceeding the two thousand dollar limit, file a verified financial statement which shall reflect all contributions received and expenditures made by or on behalf of the candidate or personal committee to that date.
- C. Upon exceeding the two thousand dollar limit, the personal campaign committee shall follow the normal reporting procedures set out in this chapter.
- D.
  - 1. As used in this Subsection D, "account" means an account in a financial institution:
    - a. That is not described in the above Subsections; and
    - b. Into which or from which a person who, as a candidate for an office, other than a public office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a public office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.
  - 2. Each City office candidate, local school board office candidate or officeholder with an account shall include with the verified financial statements a contribution deposited in or an expenditure made from an account:
    - a. Since the last financial report filed; or
    - b. That has not been reported under a statute or ordinance that governs the account.

#### 2.72A.205 - City office candidate and local school board office candidate—Financial reporting requirements—Termination of duty to report.

- A. Each City office candidate, local school board office candidate, officeholder and their respective personal campaign committees are considered active and subject to interim reporting requirements until the candidate withdraws or is eliminated in a convention, primary, or general election or the officeholder files a statement of dissolution with the City clerk.
- B. Each City office candidate, local school board office candidate, officeholder and their respective personal campaign committees are considered active and subject to year-end summary reporting requirements until the candidate or officeholder has filed a statement of dissolution with the City clerk stating that:
  - 1. The City office candidate, local school board office candidate, officeholder or their respective personal campaign committee is no longer receiving contributions and is no longer making expenditures;
  - 2. The ending balance on the last summary report filed is zero and the balance in the separate bank account required in Section 2.72A.201 is zero, with copies of all campaign account bank statements received since the last year-end summary or other financial report; and
  - 3. A final summary report in the form required by Section 2.72A.203 showing a zero balance is attached to the statement of dissolution.

- C. Each political action committee and political issues committee is considered active and subject to year-end summary reporting requirements until the political action committee or political issues committee has filed a statement of dissolution with the City clerk stating that:
  - 1. The political action committee or political issues committee is no longer receiving contributions and is no longer making expenditures; and
  - 2. A final summary report in the form required by Section 2.72A.203 showing a zero balance is attached to the statement of dissolution.
- D. A statement of dissolution and a final summary report may be filed at any time.
- E. Each City office candidate, officeholder and their respective personal campaign committee shall continue to file the year-end summary report required by Section 2.72A.203 until the statement of dissolution and final summary report required by this section are filed with the City clerk.

2.72A.206 - City office candidate, local school board office candidate and officeholder—Failure to file reports—Notice by City clerk—Penalties—Limitation of action.

- A. Within five days after a deadline for the filing of an interim report and within thirty days after the deadline for filing a summary report, the City clerk shall review each filed report to ensure that:
  - 1. Each City office candidate, local school board office candidate, and officeholder that is required to file an interim report or summary report has filed one; and
  - 2. Each interim report or summary report contains the information required by this part.
- B.
  - 1. If a City office candidate or local school board office candidate fails to timely file an interim report due immediately before the regular primary election, September 15th, or immediately before the regular general election, the City clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:
    - a. Shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or
    - b. Shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
    - c. May not count any votes for that candidate.
  - 2. Any City office candidate or local school board office candidate who fails to file timely a financial statement required by this part is disqualified.
  - 3. Notwithstanding subsections (B)(1) and (B)(2), a City office candidate or local school board office candidate is not disqualified if:
    - a. The candidate timely files the reports required by this section;
    - b. Those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and
    - c. Those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
- C.
  - 1. Upon review of the City clerk, if it appears that any City office candidate, local school board office candidate or officeholder has failed to file an interim report or the summary report required by law, if it appears that a filed interim report or summary report does not conform to the law, if the report contains obvious material omissions, errors, or inaccuracies, or if the City clerk has received a written complaint alleging a violation of the law or the falsity of any summary report, the City clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify by registered mail or personal service, the City office candidate, local school board office candidate or officeholder of the violation or written complaint and direct the City office candidate, local school

board office candidate or officeholder to file an interim report or summary report correcting the problem.

2. It is unlawful for any City office candidate, local school board office candidate or officeholder to fail to file or amend an interim report or summary report within fourteen days after receiving notice from the City clerk under this section.
  - a. If a candidate or officeholder's failure to file a report results from inadvertence or neglect the candidate or officeholder is guilty of an infraction.
  - b. If a candidate or officeholder files a report later than fourteen days after receiving notice from the City clerk or if a candidate or officeholder files a report that includes inadvertent omissions or insignificant errors or inaccuracies, and those errors or inaccuracies are not corrected in the candidate or officeholder's next report, the candidate or officeholder is guilty of an infraction.
  - c. If a candidate or officeholder knowingly and intentionally violates any reporting requirement by failure to file a report or knowingly and intentionally filing a false report, the candidate or officeholder is guilty of a Class B misdemeanor.
- D. Any officeholder convicted of a misdemeanor under subsection (C)(2) of this section shall be subject to removal from office by judicial proceedings, as provided in Section 77-6-1, et seq., Utah Code Annotated (as amended).
- E. If a fourteen-day notice has been given by the clerk, any prosecution must be initiated within one year after expiration of that notice.

#### 2.72A.601 - Political action committees—Registration.

- A. Each political action committee shall file a statement of organization with the City clerk's office no later than seven days after:
  1. Receiving contributions totaling at least seven hundred fifty dollars in any calendar year; or
  2. Distributing expenditures for political purposes totaling at least seven hundred fifty dollars in any calendar year.
- B. The statement of organization shall include:
  1. The name and address of the political action committee;
  2. The name, address, occupation and title of each officer;
  3. The name and address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;
  4. The name and address of all affiliated or connected organizations and their relationships to the political action committee;
  5. The name, address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and
  6. The name, address, and occupation of each member of the governing board, if any.
- C.
  1. Any registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the City clerk's office.
  2. Any notice of dissolution filed by a political action committee does not exempt that political action committee from complying with the financial reporting requirements of this chapter.
- D. Political action committees are not required to file under this section if a statement of organization is filed with the state in accordance with state law.

#### 2.72A.602 - Political action committees—Financial reporting.



- A. 1. Each registered political action committee that has received contributions or made expenditures that total at least seven hundred fifty dollars during a calendar year shall file a verified financial statement with the City clerk's office on the following dates:
- January 31st reporting contributions and expenditures as of December 31st of the previous year;
  - For the period ending March 31st, the report shall be due April 5th;
  - For the period ending eight days before the primary election date, the report shall be due seven days preceding the primary election date;
  - For the period ending September 10th, the report shall be due September 15th; and
  - For the period ending eight days before the regular general election, the report shall be due seven days preceding the regular general election.
2. The registered political action committee shall report a detailed listing of all contributions received and expenditures made since the last statement.
3. The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.
- B. 1. The verified financial statement shall include:
- The name and address of any individual that makes a contribution to the reporting political action committee, and the amount of the contribution;
  - The identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, and the amount of the contribution;
  - The name and address of any political action committee, group, or entity that makes a contribution to the reporting political action committee, and the amount of the contribution;
  - For each nonmonetary contribution, the fair market value of the contribution;
  - The name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;
  - For each nonmonetary expenditure, the fair market value of the expenditure;
  - The total amount of contributions received and expenditures disbursed by the reporting political action committee;
  - A paragraph signed by the political action committee's treasurer or chief financial officer verifying that, to the best of the signer's knowledge, the financial report is accurate; and
  - A summary page in the form required by the City clerk that identifies:
    - Beginning balance;
    - Total contributions during the period since the last statement;
    - Total contributions to date;
    - Total expenditures during the period since the last statement; and
    - Total expenditures to date.
2. a. Contributions received by a political action committee that have a value of fifty dollars or less need not be reported individually, but shall be listed on the report as an aggregate total.
- b. Two or more contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.
- C. Political action committees are not required to file under this section if reports are filed with the state in accordance with state law.

2.72A.603 - Political action committee—Failure to file reports—Notice by City clerk—Penalties—  
Limitation of action.

- A. Within five days after a deadline for the filing of a financial statement or statement of organization, the City clerk shall review each filing to ensure that:
  - 1. Each political action committee that is required to file a financial statement or statement of organization has filed one; and
  - 2. Each filing contains the information required by this part.
- B.
  - 1. Upon review of the City clerk, if it appears that any political action committee has failed to file a financial statement or statement of organization required by law, if it appears that a filing does not conform to the law, or if the City clerk has received a written complaint alleging a violation of the law or the falsity of any filing, the City clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file financial statement or statement of organization correcting the problem.
  - 2. It is unlawful for any political action committee to fail to file or amend a financial statement or statement of organization within fourteen days after receiving notice from the City clerk under this section.
- C. Each political action committee which violates subsection (B)(2) is guilty of an infraction, with the following exceptions:
  - 1. A political action committee does not violate subsection (B)(2) if:
    - a. The political action committee files the financial statements or statement of organization required by this section prior to the expiration of the fourteen days notice set forth in subsection (B)(2);
    - b. Those filings are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and
    - c. Those omissions, errors, or inaccuracies are corrected in an amended filing or in the next scheduled filing; or
  - 2. The failure to comply with subsection (B)(2) results from inadvertence or negligence or is otherwise not an intentional violation.
- D. The City clerk shall report all violations of subsection (B)(2) to the district attorney.
- E. No action under subsection (C) can be brought after one year from the expiration of the fourteen-day period set forth in subsection (B)(2). In no event shall any action under this subsection be initiated later than four years after the financial statement or statement of organization was due under this chapter.

2.72A.801 - Political issues committees—Registration.

- A. Each political issues committee shall file a statement of organization with the City clerk's office no later than seven days after receiving political issues contributions totaling at least seven hundred fifty dollars or disbursing political issues expenditures totaling at least fifty dollars in any calendar year.
- B. The statement of organization shall include:
  - 1. The name and address of the political issues committee;
  - 2. The name, address, occupation, and title of each officer;
  - 3. The name and address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

4. The name and address of all affiliated or connected organizations and their relationships to the political issues committee;
  5. The name, address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;
  6. The name, address, and occupation of each member of the supervisory board, if any; and
  7. The ballot proposition whose outcome they wish to affect, and whether they support or oppose it.
- C. 1. Any registered political issues committee that intends to permanently cease operations during a calendar year shall file a notice of dissolution with the City clerk's office.
2. Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter.
- D. Political issues committees are not required to file under this section if a statement of organization is filed with the state in accordance with state law.

2.72A.802 - Political issues committees—Financial reporting.

- A. 1. Each registered political issues committee that has received political issues contributions totaling at least seven hundred fifty dollars or disbursed political issues expenditures totaling at least fifty dollars during a calendar year on current or proposed Citywide ballot propositions, to influence an incorporation petition or an incorporation election, or on initiative petitions to be submitted to the City Council, shall file a verified financial statement with the City clerk's office on the following dates:
- a. On January 31st, reporting contributions and expenditures as of December 31st of the previous year;
  - b. For the period ending eight days before the date of an incorporation election, the report shall be due seven days preceding the incorporation election if the political issues committee has received donations or made expenditures to affect an incorporation;
  - c. For the period ending March 31st, the report shall be due April 5th;
  - d. June 15th;
  - e. At least three days before the first public hearing held on any initiative;
  - f. At the time the sponsors submit the verified and certified initiative packets to the City clerk;
  - g. For the period ending September 10th, the report shall be due September 15th; and
  - h. For the period ending eight days before the regular general election, the report shall be due seven days preceding the general election date.
2. The political issues committee shall report a detailed listing of all contributions received and expenditures made since the last statement.
3. The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.
- B. 1. That statement shall include:
- a. The name and address of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
  - b. The identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

- c. The name and address of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
  - d. The name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
  - e. For each nonmonetary contribution, the fair market value of the contribution;
  - f. Except as provided in subsection (B)(3), the name and address of each individual, entity or group of individuals or entities that received a political issues expenditure of more than fifty dollars from the reporting political issues committee, and the amount of each political issues expenditure;
  - g. For each nonmonetary expenditure, the fair market value of the expenditure;
  - h. The total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;
  - i. A paragraph signed by the political issues committee's treasurer or chief financial officer verifying that, to the best of the signer's knowledge, the financial statement is accurate; and
  - j. A summary page in the form required by the City clerk that identifies:
    - i. Beginning balance;
    - ii. Total contributions during the period since the last statement;
    - iii. Total contributions to date;
    - iv. Total expenditures during the period since the last statement; and
    - v. Total expenditures to date.
- 2. a. Political issues contributions received by a political issues committee that have a value of fifty dollars or less need not be reported individually, but shall be listed on the report as an aggregate total.
  - b. Two or more political issues contributions from the same source that have an aggregate total of more than fifty dollars may not be reported in the aggregate, but shall be reported separately.
- 3. When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:
    - a. Need only report the amount paid to each initiative petition circulator; and
    - b. Need not report the name or address of the circulator.
  - 4. Political issues committees are not required to file under this section if reports are filed with the state in accordance with state law.

2.72A.803 - Political issue committee—Failure to file reports—Notice by City clerk—Penalties—  
Limitation of action.

- A. Within five days after a deadline for the filing of a financial statement or statement of organization, the City clerk shall review each filing to ensure that:
  - 1. Each political issues committee that is required to file a financial statement or statement of organization has filed one; and
  - 2. Each filing contains the information required by this part.
- B. 1. Upon review of the City clerk, if it appears that any political issues committee has failed to file a financial statement or statement of organization required by law, if it appears that a filing does not

conform to the law, or if the City clerk has received a written complaint alleging a violation of the law or the falsity of any filing, the City clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file financial statement or statement of organization correcting the problem.

2. It is unlawful for any political issues committee to fail to file or amend a financial statement or statement of organization within fourteen days after receiving notice from the City clerk under this section.
- C. Each political issues committee which violates subsection (B)(2) is guilty of an infraction, with the following exceptions:
1. A political issues committee does not violate subsection (B)(2) if:
    - a. The political issues committee files the financial statements or statement of organization required by this section prior to the expiration of the fourteen days notice set forth in subsection (B)(2);
    - b. Those filings are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and
    - c. Those omissions, errors, or inaccuracies are corrected in an amended filing or in the next scheduled filing; or
    - d. The failure to comply with subsection (B)(2) results from inadvertence or negligence or is otherwise not an intentional violation.
- D. The City clerk shall report all violations of subsection (B)(2) to the district attorney.
- E. No action under subsection (C) can be brought after one year from the expiration of the fourteen day period set forth in subsection (B)(2). In no event shall any action under this subsection be initiated later than four years after the financial statement or statement of organization was due under this chapter.

#### 2.72A.1001 - Blanks for statements prepared and furnished by chief election officer.

The chief election officer shall:

- A. Develop and prepare forms for all statements required by this chapter; and
- B. Provide copies of the forms to the secretary of every committee, to every candidate, and to all others who request them.

#### 2.72A.1002 - Retention and public inspection of financial statements—Written complaint if statement is false or unlawful.

A. The chief election officer shall:

1. Make each financial statement and statement of organization required by this chapter:
    - a. Open to public inspection in the office of the chief election officer; and
    - b. When an internet accessible system has been established by the City clerk, make such documents available for viewing on the Internet at the City clerk's website within seven calendar days after the report is received by the chief election officer, except that the City clerk shall exclude home addresses and other personal information from being viewed on the internet;
  2. Preserve those statements for at least five years; and
  3. Provide certified copies of the financial statements in the same manner as for other public records.
- B. Any candidate or voter may file a written complaint with the chief election officer alleging that a filed financial statement does not conform to law or to the truth

## Chapter 2.73 - LOBBYIST DISCLOSURE

### 2.73.010 - Definitions.

As used in this chapter:

"City officer" means an individual elected, appointed or employed in a position in City government, when acting within his official capacity.

"Executive action" means:

1. Nominations and appointments by the mayor;
2. The proposal, drafting, amendment, enactment or defeat by a City agency of any ordinance, rule, policy or procedure.

"Legislative action" means:

1. Ordinances, resolutions, amendments, policies, regulations, nominations and other matters pending or proposed in the Council or its committees or requested by a council member; and
2. The action of the mayor in approving or vetoing legislation.

"Lobbying" means communicating with a City officer for the purpose of influencing the passage, defeat, amendment or postponement of legislative or executive action.

1. "Lobbyist" means an individual who is employed by a principal or who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a City officer or the Council.
2. "Lobbyist" does not include:
  - a. An elected or other government official while acting in his official capacity on matters pertaining to his office and acting within the scope of his employment;
  - b. Any person participating on or appearing for testimony before the Council or an advisory or study task force, commission, board or committee, constituted by the City Council or any agency or department of City government;
  - c. An individual representing a bona fide church solely for the purpose of protecting the right to practice religious doctrines of the church;
  - d. A publisher of or reporter for a newspaper, television station or network, radio station or network, periodical of general circulation, or book for the purpose of publishing news items, editorials, other comments or paid advertisements that directly or indirectly urge legislative or executive action;
  - e. An individual who appears on his own behalf before the Council or a City officer or agency solely for the purpose of testifying in support of or in opposition to legislative or executive action.

"Person" includes individuals, bodies politic and corporate, partnerships, associations and companies.

"Principal" means a person who employs a lobbyist either as an employee or as an independent contractor.

### 2.73.020 - Licensing requirements.

- A.
  1. Before engaging in any lobbying, a lobbyist shall obtain a license from the City clerk by completing the form required by this section.
  2. The clerk shall issue licenses to qualified lobbyists.
  3. The clerk shall prepare a lobbyist license application form that includes a space for:

- a. The lobbyist's name and business address;
  - b. The name and business address of each principal for whom the lobbyist works or is hired as an independent contractor;
  - c. The name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;
  - d. The lobbyist to disclose any elected or appointed position that the lobbyist holds in state or local government, if any;
  - e. The lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and
  - f. A certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate and complete to the best of the lobbyist's knowledge and belief.
- B. Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying on behalf of a new principal.
- C. 1. Except as provided in subsection (D), the clerk shall grant a lobbying license to an applicant who:
- a. Files an application with the clerk that contains the information required by this section; and
  - b. Pays a twenty-five dollar filing fee.
2. A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31st of each even-numbered year.
- D. The clerk shall deposit license fees in the City general fund.
- E. Government officials need not obtain a license under this section.

2.73.030 - License applications are public documents.

Any person may without charge inspect a license application filed with the clerk in accordance with this chapter and receive a copy of a report after paying for the actual costs of the copy.

2.73.040 - Penalties.

- A. Any person who willfully and knowingly violates this chapter is guilty of a Class B misdemeanor and the clerk shall suspend the lobbyist's license for up to five years from the date of the conviction; and
- B. Nothing in this chapter creates a third-party cause of action or appeal rights.

2.73.050 - Construction and interpretation—Freedom of expression, participation and press.

No provision of this chapter may be construed, interpreted or enforced so as to limit, impair, abridge or destroy any person's right of freedom of expression and participation in government processes or freedom of the press.

Chapter 2.74 - Reserved

Chapter 2.76 - COUNSEL FOR INDIGENT DEFENDANTS

2.76.010 - General policy.

Millcreek City shall discharge its obligation to provide legal counsel and investigators and defense support services to indigent defendants or juvenile defendants by contracting yearly with the Salt Lake Legal Defender Association or such other legal counsel or nonprofit legal aid associations as may be deemed qualified and appropriate by the mayor. Millcreek City shall discharge its duty to provide said legal defense under law in accordance with the Utah Code.

#### 2.76.020 - Conflicts of interest—Resolution procedure.

When a conflict of interest is believed to exist between contracted counsel and one or more defendants, contracted counsel shall follow the procedure hereinafter set forth:

- A. Application to withdraw as counsel shall be made to the presiding judge of the district or juvenile court and a copy thereof mailed to the attorney;
- B. Counsel making the application to withdraw shall notify the attorney in writing of the court's ruling.

#### 2.76.030 - Conflicts of interest—Appointment of other counsel.

Millcreek City and the Salt Lake Legal Defender Association shall maintain with the courts lists of other contracted counsel who are approved by Millcreek City for representation of indigent defendants in the event a conflict of interest exists. Upon a ruling by the court that a conflict of interest exists, the court will appoint other counsel from these lists, as appropriate, and the counsel so appointed shall mail copies of the order of appointment to the attorney and the auditor.

#### 2.76.040 - Payment method and fees.

- A. The method of payment and fees for counsel representing an indigent defendant shall be established by contract entered into prior to placement of counsel on the selection lists and prior to appointment by the court.
- B. If counsel appointed by the court receives payment for fees and/or expenses from another source or sources as payment of fees and/or expenses incurred in representing an indigent defendant, said counsel shall reimburse the City for fees already paid and any expenses reimbursed to counsel up to the amount of the payment received from the other sources.

#### 2.76.050 - Additional compensation—Conditions.

The fees established by contract to compensate counsel defending indigent defendants are deemed reasonable by the mayor and City Council. However, when by reason of a trial of extraordinary length or other extraordinary circumstances, appointed counsel believes the fees are grossly inadequate, an additional sum commensurate to the additional work required due to the extraordinary circumstances may be paid upon a finding by the Council that the additional fees requested are reasonable.

#### 2.76.060 - Costs of experts and investigators.

Expert witnesses and investigators on defense cases of the Legal Defender Association and conflict counsel shall be provided by the Legal Defender Association pursuant to its annual contract with Millcreek City.

### Chapter 2.80 - PERSONNEL MANAGEMENT

#### 2.80.010 - Purpose of provisions.

In enacting the ordinance codified in this chapter, it is the purpose of the Council to provide, in accordance with the City Personnel Management Act (hereinafter referred to as "the Act"), Utah Code Ann. §§ 17-33-1 to -16, for creation of a City human resource agency and career service council as set forth in the Act.

#### 2.80.020 - Career service council—Created—Membership.

There is created the City career service council. The Council shall be a bipartisan body, consisting of three members who shall be appointed by the Council for staggered three-year terms. Members shall have qualifications as provided in the Act.



#### 2.80.030 - Career service council—Powers and duties.

The career service council is empowered to hear grievances and appeals from City as established by statute and personnel policies and procedures. Specific duties and procedures of the Council shall be as provided in the Act and in personnel policies and procedures adopted pursuant to the Act.

#### 2.80.040 - Office of human resource management—Created—Director.

There is created the City human resource agency within the department of administrative services and under the office of the mayor. The agency shall be administered by a director of human resources, who shall be appointed in the manner and subject to the conditions provided for by law.

#### 2.80.050 - Office of human resource management—Powers and duties.

The human resource agency, in conjunction with City offices, agencies and departments, shall be responsible for administering the merit and civil service systems and human resource functions of the City under the supervision of the director. The division and the director shall have such powers, duties and functions as are provided in the Act and City ordinances and Citywide and human resource policies, and shall be responsible for the development, implementation and administration of an employee benefits program for the City.

#### 2.80.060 - Rules and regulations.

The administration of merit system and human resource functions within the City shall be governed by such specific rules, regulations, policies and procedures as are, from time to time, prepared by the human resource agency and the various City agencies and departments and adopted by resolution of the Council. Such regulations shall provide for recruitment, hiring, training, advancement and compensation of employees, grievance and appeal procedures, political activities, human resource recordkeeping, and such other matters as are necessary to address the proper functioning of the City's merit system and human resource functions, and as are in accordance with the provisions and intent of the Act.

#### 2.80.070 - Salaries set-pay plan.

- A. Pursuant to the provisions of the City Personnel Management Act the human resource agency shall design and administer a City pay plan that includes salaries, pay-for-performance raises, incentives, bonuses, leave, insurance, retirement and other benefits as defined through policy. The City Council may approve, amend or reject the pay plan. Salaries for elected officials shall be set by the Council as established by State Statute and salaries for assistants shall be set by the elected official.
- B. The City Council may appoint a City executive pay committee to assist the Council in establishing salaries for elected officials and officers of the City.

#### 2.80.080 - Deputy sheriff's merit system - Reserved.

#### 2.80.120 - Human Resources advisory committee.

- A. There is established the human resources advisory committee, which shall be comprised of the following representatives:
  - 1. Two (2) members representing the elected offices;
  - 2. Three (3) members representing the mayor's portfolio;
  - 3. One (1) employee representative selected by the mayor's office;
  - 4. One (1) citizen representative selected by the director of human resources;

5. The committee shall be chaired by the director of human resources. The chair shall prepare and distribute agendas for all committee meetings, preside at such meetings and prepare and distribute minutes of all meetings;
  6. Ex officio non-voting member of the committee shall include the City's director of equal employment opportunity/affirmative action.
- B. The committee shall meet as frequently as necessary.
- C. In its capacity as human resources advisory committee, the committee shall serve as an advisory body to the human resource agency and to the director thereof. As such, the committee shall hear and consider issues regarding the administration and activities of the merit system and human resource functions within the City pursuant to this chapter and to the Act. The committee may serve, as requested by the director, as the initial screening and review body for the consideration, enactment, amendment or repeal of City-wide human resource policies and procedures. The committee shall further provide such other services regarding human resource matters as may be requested by the director.
- D. The committee may convene such subcommittees as may be necessary from time to time. Such subcommittees shall be established and dissolved as necessary and shall report their findings and activities to the full committee. Subcommittees may include representation from employee organizations and unions representing dues paying City employees per City-wide policy and procedure.

#### 2.80.130 - Management of employee benefits.

- A. The responsibility for the management of employee benefits shall be assumed by the personnel division, the mayor and community and support services department and by the attorney's office as provided in this section:
1. Employee benefits for which the personnel division and its director are responsible include but are not necessarily limited to: leave, training and tuition reimbursement, long-term disability, insurance for active and retired employees and their dependents, COBRA, leave without pay, employee awards and incentives, holidays and administrative costs associated with the management of employee benefits, such as publications, memberships, and travel and training. The administration and management of employee benefits under this subdivision shall be undertaken by the director as provided in State Statute and with the assistance of the benefits advisory committee, as set out in section 2.80.120.
  2. Payment and administration of employment benefits which are provided to employees pursuant to federal or state law mandates, such as but not limited to social security, unemployment, worker's compensation, retirement contributions, and similar programs, shall be the primary responsibility of the mayor's division of financial administration.
- B. The management of the "Employee Service Reserve Fund" (hereinafter "ESR Fund") shall be the ultimate responsibility of the mayor's division of financial administration; provided, however, that the preparation of the ESR Fund budget will be the shared responsibility of the director of the personnel division and the mayor's division of financial administration for employee benefits set out in subsection (A)(1) of this section and shall be under the mayor for the components set out in subsection (A)(2), and will be established pursuant to the following process:
1. The personnel director shall develop compensation and benefit recommendations. The mayor will provide estimated cost of compensation and benefit packages as part of the tentative budget. Management shall include the establishment of the two employee benefit categories described at subsections (A)(1) and (A)(2) of this section in the various City agencies and organizations within the fund and providing a standard City monthly financial report to the director of the personnel division which details the results of recorded revenues and expenditures in the fund.
  2. All expenditures relating to the employee benefits components which fall under the responsibility of the mayor and personnel division, as specified in subsection (A)(1) of this section, will be

authorized first by the personnel division and second by the mayor's division of financial administration.

3. The City mayor will act as the budget manager for all portions of the ESR Fund and shall be responsible for insuring that the fund is actuarially sound and conforms to all applicable accounting and financial reporting standards.

#### 2.80.140 - Discrimination Prohibited.

Discrimination in Millcreek City government employment based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of Millcreek City government employment opportunities. Nothing in this section is intended to require additional employee benefits, including benefits related to family, marital, cohabitant or dependent status unless provided for by state or federal law or contract.

#### 2.80.150 - Criminal background checks.

- A. The City shall conduct criminal background checks in accordance with the provisions of this section and of human resource policies and procedures approved and adopted by the City Council and in accordance with State Statute.
- B. The human resource agency will identify and maintain a current list of job classifications where there are bona fide occupational qualifications regarding the hiring of individuals with criminal conviction histories. These job classifications may include but not be limited to positions which involve handling or accounting for substantial amounts of money, access to controlled substances, public safety and criminal justice, drug and alcohol services, and working with at-risk clientele, including but not limited to minors and the elderly. Job applicants, current employees, individuals eligible for rehire, or unpaid volunteers who are being considered for these positions will be subject to a criminal records check through the State Bureau of Criminal Identification. Records check activities shall be centralized in the City human resource agency, except for sheriff's office and/or other criminal justice positions.
- C. Any fees charged to individuals, by the state, for the conducting of a criminal background check, shall be reimbursed by the City.

### Chapter 2.81 - SECURITY OF PERSONAL IDENTIFIERS

#### 2.81.010 - Definitions.

- A. As used in this chapter, "agency" refers to any Millcreek City elected office, department, division, or other subdivision of City government.
- B. As used in this chapter, "individual" refers to any natural person including City clients and patrons; members of the public; and City officers, employees and volunteers.
- C. As used in this chapter, "personal identifiers" means and includes an individual's home address, home telephone number, personal cellular telephone number, signature, social security number, birth date, personal email address, driver's license number, passport number, and any financial identification numbers, including, but not limited to, bank account numbers, credit card numbers and information obtained to authenticate a cardholder or effectuate a payment card transaction.

#### 2.81.020 - Protecting personal identifiers—Requirement for City department or division regulations.

City agencies shall ensure that all personal identifiers in the agency's control are kept confidential and secure and are not used for any purpose other than a bona fide government necessity.

- A. No agency shall collect or maintain personal identifiers except where provided by law or ordinance, or where necessary to the functioning of the agency. The collection of credit card

numbers is permitted for those agencies which accept payment, in the regular course of City business, by credit card.

- B. 1. Any City agency which collects, maintains or transmits personal identifiers shall make a formal determination, in writing, which explains why personal identifiers are collected, maintained or transmitted and explains which specific personal identifiers are necessary. Agencies shall collect or use only those specific personal identifiers which are necessary to government business.
- 2. Each agency shall have in place a written regulation or policy which establishes procedures for the secure collection, maintenance, transmission, transfer, or disposal of personal identifiers.
- C. City agencies are bound by the provisions of state and federal law regarding the public or confidential nature of records containing personal identifiers, including but not limited to the Utah Governmental Records Access and Management Act (GRAMA) and the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

#### 2.81.030 - Private contractors.

If a City agency contracts with a private entity and the contract contemplates or provides for the transmission or use of any individual's personal identifiers, the contract shall include mandatory provisions requiring that the contractor exercise care to ensure the protection of personal identifiers and that the contractor shall be legally liable for any breach of that duty.

#### 2.81.040 - Penalty.

Any City officer or employee who knowingly violates this chapter may be guilty of a Class B misdemeanor and shall be subject to appropriate disciplinary action.

### Chapter 2.82 - RECORDS MANAGEMENT

#### 2.82.010 - Government records findings—Recognition of public policy.

The Council of Millcreek City finds the following:

- A. It is in the best interests of Millcreek City and the citizens thereof, and essential for the administration of City government, to maintain and preserve accurate governmental records; to provide ready access to records which are defined by law as open to the public; to maintain the security of records which are defined by law as nonpublic; and to ensure the preservation of vital and historically valuable records.
- B. As the records of Millcreek City government agencies are a resource containing information which (1) allows government programs to function; (2) provides officials with a basis for making decisions and ensuring continuity with past operations; and (3) permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.
- C. It is the policy of the City that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens as set forth in this chapter.
- D. The City recognizes a public policy interest in allowing the government to restrict access to certain records, as specified in the Act and this chapter, for the public good.

#### 2.82.020 - Purpose and intent.

In enacting this chapter, it is the purpose and intent of the Council to provide, in accordance with the Government Records Access and Management Act (hereinafter referred to as "the Act"), Chapter 2 of Title 63 of the Utah Code Annotated (1953), an ordinance acknowledging and complying with the Act and

providing for its application in the City. City agencies shall comply with the provisions of this chapter, the Act, and other federal and state statutory and regulatory recordkeeping requirements.

(Ord. 1473 (part), 2001: Ord. 1190 § 1 (part), 1992) 2.82.030 - Definitions.

As used in this chapter:

- A. "Act" means the Government Records Access and Management Act.
- B. "Agency" means any office, department, division, section, staff office, board, committee or other division of Millcreek City Government, any public or private entity or person which contracts with the City to provide goods or services directly to the City, or any private nonprofit entity that receives funds from the City.
- C. "Agency designee" means an individual chosen by the Agency to review an initial appeal of a person aggrieved by the City's classification of a record, the fees charged for a record, or by an agency's response to a record request.
- D. "Chief Administrative Officer for Appeals" means an individual chosen by the City to be the chief administrative officer for purposes of a specific GRAMA request appeal.
- E. "Computer software application" means the series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals or other source material explaining how to operate the software application. "Software" does not include the original data or record which is manipulated by the software.
- F. "Controlled records" means those defined as controlled under the provisions of this chapter and in accordance with the provisions of the Act.
- G. "Data" means individual elements or fields (for example, birth date, address) in records.
- H. "Designate" or "designation" means to give an initial or primary classification to a record or record series indicating the likely classification that a majority of such records or record series would likely be given if classified.
- I. "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, nonwritten formats, data processing or other records.
- J. "Nonpublic records" means those records defined as private, controlled or protected under the provisions of this chapter and of the Act.
- K. "Private" records means those records classified as private under the provisions of this chapter and of the Act.
- L. "Protected" records means those records classified as protected under the provisions of this chapter and the Act.
- M. "Public" records means those records which have not been classified as nonpublic in accordance with the provisions of this chapter and the Act.
- N. "Record" means those materials as defined as records in the Act.

2.82.040 - Public access.

- A. Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the City and subject to Section 2.82.170 hereof, of all City governmental records designated as "public" under the provisions of this chapter, and of the Act and policies and procedures developed hereunder.

- B. The City has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.
- C. When a record is temporarily held by a custodial City agency, pursuant to that custodial agency's statutory and ordinance functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purpose of this chapter. The record shall be considered a record of the agency or agencies which usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency, pursuant to procedures established by the City. Only when records have been formally filed for permanent archival retention shall City archives be responsible for responding to requests for another agency's records.

#### 2.82.050 - Availability—Restrictions.

- A. Public records shall be those City records as defined in the Act, § 63-2-301 (U.C.A., 1953, as amended), as public. Public records shall be made available to any person. All City records are considered public unless they are expressly classified otherwise in accordance with policies and procedures established under this chapter and the Act or are made nonpublic by the Act or other applicable law.
- B. Private records shall be those City records classified as "private," as defined in the Act, § 63-2-302 (U.C.A., 1953, as amended), and as classified and defined in procedures established pursuant to this chapter and in accordance with the Act. Private records shall be made available to the following persons: The subject of the record, the parent or legal guardian of an unemancipated minor who is the subject of a record, the legal guardian of an incapacitated individual who is the subject of a record, any person who has a power of attorney or a notarized release dated not more than ninety days prior to the request from the subject of the record or his legal representative, or any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.
- C. Controlled records shall be those City records classified as "controlled," as defined in the Act, § 63-2-303 (U.C.A., 1953, as amended), and as classified and defined in procedures established in this chapter and in accordance with the Act. Controlled records shall be made available to a physician, psychologist or licensed social worker who submits a notarized release dated not more than ninety days prior to the request from the subject of the record or any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.
- D. Protected records shall be those City records classified as "protected," as defined in the Act, § 63-2-304 (U.C.A., 1953, as amended), and as classified and defined in procedures established in this chapter and in accordance with the Act. Protected records shall be made available to the person who submitted the record, to a person who has power of attorney or notarized release dated not more than ninety days prior to the request from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order issued by a court of competent jurisdiction.
- E. Under circumstances set out by the Act, it may be appropriate to disclose nonpublic City records to persons other than those set out in this section. The determination to so release records shall be at the discretion of the department director or elected official or designee, consistent with the Act, and upon the advice of the attorney.

#### 2.82.060 - Right of privacy.

- A. The City recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records. The City also recognizes that the Act and Utah case law establish a presumption that governmental records will generally be considered open and public, with certain specific exceptions. In circumstances where a record's public or nonpublic status is not specifically established by the Act or another statute, by this chapter, or by policies established or designations made under this chapter, the public's right to access and the record subject's right of privacy must be compared. The City shall not release any records when to do so would constitute a clearly unwarranted

invasion of personal privacy, in accordance with the Act, applicable case law, and procedures established in this chapter. Under circumstances and procedures established by this chapter, certain items of data may be rendered nonpublic, although other items of data in the record, or the record itself, may be classified public.

- B. The City may, as determined appropriate by the agency director of the agency responding to a request for records, notify a subject of a record that a request for access to the subject's record has been made.

#### 2.82.070 - Designation, classification and retention scheduling.

All City records and record series, of any format, shall be evaluated, designated, classified and scheduled for retention according to the provisions of the Act and this chapter. The City may designate or redesignate or classify or reclassify records or data at any time and is not required to classify a particular record or item of data until access thereto is requested. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation, classification and scheduling for retention shall be conducted under the supervision of the City records manager or designee in consultation with the agency director of the agency in charge of the record in question, or designee. All proposed schedules shall be submitted to the City records manager. Assistance may be requested from the attorney as needed. Designation, classification and retention scheduling forms and guidelines shall be prepared and promulgated by the City records manager and the records policy administration.

#### 2.82.080 - Requisition—Response time—Denial.

- A. Under circumstances in which an agency is not able to immediately respond to a records request, the requester shall fill out and present to the agency a written request on forms provided by the City. The date and time of the request shall be noted on the written request form and all times provided under this chapter shall commence from that time and date. Requesters of nonpublic records shall adequately identify themselves and, if applicable, their status when requesting access to nonpublic records.
- B. An agency may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures. If a written request is denied in whole or in part, the agency shall provide a notice of denial to the requester. The denial notice shall include the reasons for denial and information regarding the appeals process and such other information as may be required by this chapter and the Act.
- C.
  - 1. An agency shall respond to a written request for a record as soon as reasonably possible, but no later than ten business days after receiving the request or five business days after receiving a request if the requester satisfactorily demonstrates that an expedited response time primarily benefits the public at large, rather than the requester individually. A requester seeking records for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.
  - 2. The following extraordinary circumstances shall justify an agency's failure to timely respond to a written request for a record and shall extend the time for response thereto to that time reasonably necessary to respond to the request, as determined by the agency director. Extraordinary circumstances include:
    - a. The agency, another agency, or some other governmental entity is currently and actively using the record requested;
    - b. The record requested is for either a voluminous quantity of records or requires the agency to review a large number of records or perform extensive research to locate the materials requested;
    - c. The agency is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

- d. The release of a record involves legal issues that require an agency to seek legal counsel for analysis of applicable laws;
  - e. The request involves extensive editing to separate public data in a record from that which is not public; or
  - f. Providing the information request requires computer programming or other format manipulation.
3. When a timely response cannot be made to a record request, the agency shall notify the requester that it cannot immediately approve or deny the request because of one of the extraordinary circumstances listed in subsection (C)(2) of this section, and provide an explanation of the circumstances and an estimate of the time required to respond to the request. If the agency fails to provide the requested record within the estimated time, that failure shall be considered a denial of the request.
- D. The failure or inability of an agency to respond to a request for a record within the time frames set out herein, or the agency's denial of such a request, shall give the requester the right to appeal as provided in Section 2.82.100.
- E. Any City record which is subject to litigation, criminal investigation or audit or has been requested in accordance with this chapter and the Act, that is disposable by approved retention schedule, may not be disposed of until the litigation or audit has been resolved or the request is granted and fulfilled, or sixty days after the request is denied if no appeals are filed, or sixty days after all appeals are completed, pursuant to Section 2.82.100.
- F. In response to a request for access, an agency may designate or reclassify the record or segregate data in the requested record in accordance with this chapter and the Act.

#### 2.82.090 - Fee determination.

- A. An agency may charge a reasonable fee to cover its actual cost of duplicating a record or compiling a record in a form other than that maintained by the agency.
- B. An agency may fulfill a record request without charge and is encouraged to do so when it determines that:
  - 1. Releasing the record primarily benefits the public rather than a person;
  - 2. The individual requesting the record is the subject of the record; or
  - 3. The requester's rights are directly implicated by the information in the record, and the requester is impecunious.
- C. Fee policies adopted under this chapter shall be consistent with this section.

#### 2.82.100 - Appeals.

- A.
  - 1. Persons aggrieved by the City's classification of a record, the fees charged for a record, or by an agency's response to a record request may request and be granted an initial administrative appeal of that grievance, in accordance with Citywide policies and procedures adopted by the Council. The initial administrative appeal is made to the agency designee pursuant to Citywide policies and procedures adopted by council.
  - 2. A written notice of appeal shall be filed with the agency designee within thirty calendar days after notice of the date of the agency's action has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.
  - 3. Unless otherwise stipulated by the City and the persons aggrieved, the agency designee shall have seven calendar days after the agency designee's receipt of the notice of appeal (or fourteen calendar days after the City sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.



4. Agency designee shall hear appeal in process chosen within designee's discretion and issue decision in writing to appellant.
  5. In the event the agency designee affirms the access denial, or fails to respond to the records request within the time limits listed above, the person aggrieved may then appeal the agency designee's decision to affirm the access denial.
  6. The administrative appeal is made to the chief administrative officer for appeals ("CAOA") pursuant to Citywide policies and procedures adopted by the Council.
  7. A written notice of appeal shall be filed with the CAO within thirty calendar days after notice of the date of the agency's action has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.
  8. Unless otherwise stipulated by the City and the persons aggrieved, the CAO shall have seven calendar days after the CAO's receipt of the notice of appeal (or fourteen calendar days after the City sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.
  9. In the event the CAO affirms the access denial, or fails to respond to the records request within the time limits listed above, the person aggrieved may then appeal the CAO's decision to affirm the access denial.
  10. The City hereby establishes an appeals board to decide an appeal of a decision of the CAO affirming an access denial.
    - a. An appeals board shall be composed of three members:
      - (1) one of whom shall be an employee of the City; and
      - (2) two of whom shall be members of the public, at least one of whom shall have professional experience with requesting or managing records.
  11. The City shall send written notice by certified mail of the date and location of the appeal hearing to be heard by the appeals board to the requester within seven calendar days of receiving notice of the appeal. The City shall also send written notice to the agency administrator.
  12. The appeal hearing shall be conducted in accordance with policies adopted by the Council and with the Utah Open Meetings Act.
  13. No later than seven calendar days after an appeal hearing, the appeals board shall issue a signed order upholding, amending, or reversing the agency action.
  14. Either the City or the appellant may appeal the appeals board decision to the state records committee or by filing a petition for judicial review with the district court.
- B. The decision of CAO regarding access to or classification of records shall be forwarded to the City records policy administration for corrective action, including any reclassification or designation of data or records that may be necessitated by the decision.
- C. The duties of the CAO may be delegated.

#### 2.82.110 - Access for persons with disabilities.

Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with policies developed under this chapter and in compliance with the Americans with Disabilities Act.

#### 2.82.120 - Amendments and corrections.

Records held by the City may be amended or corrected as needed and as authorized by law. Requests for amendments, corrections or other changes shall be made in writing to the agency having custody of the records and setting forth, with specificity, the amendment or correction requested and the reason for the

change. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this chapter.

#### 2.82.130 - Liability for unauthorized release.

- A. A City employee or other person having lawful custody of City records who knowingly refuses to permit access to records in accordance with the Act and this chapter, or who permits access to nonpublic records knowing that such access is prohibited, or who knowingly, without authorization or legal authority, disposes of, alters, or removes records or allows other persons to do so in violation of the provisions of the Act, this chapter, or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination of employment.
- B. In accordance with the Act, neither the City nor any of its agencies, officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

#### 2.82.140 - Access management and archiving.

- A. There shall be designated a City records manager to oversee and coordinate records access and management and City archives activities. The records manager shall make annual reports of records services activities to the Council.
- B. There is hereby created the government records access and management policy administration ("records policy administration"), to be chaired by the City records manager. Members of the records policy administration shall include representatives from the Council staff, the City departments and from the elected offices. The records policy administration shall meet periodically as needed, as determined by the City records manager. The minutes and other records of the records policy administration shall be maintained and staff provided by records management and archives section.
- C. Each agency of City government shall appoint an individual or individuals to assist with and be directly responsible for the implementation of this chapter. Regular training shall be provided under the direction of the records manager to agency records personnel.
- D. The records policy administration shall develop and provide records management, maintenance and access standards, policies and procedures, as approved by the Council to govern and implement the provisions of the Act and this chapter. Approval and promulgation of records policies and procedures shall be in accordance with the provisions of this code of ordinances and the Act. Copies of any rule or policy promulgated under this chapter shall be forwarded by the City record manager to the Utah State Division of Archives within thirty days after its effective date. Any agency's internal policies regarding records management and access shall be consistent with this chapter and state law.

#### 2.82.150 - Custody and control.

- A. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve City records safely and accurately over the long term. The records manager shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of City records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance of records. Citywide policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Council.
- B. All City records which constitute an intellectual property right shall remain the property of the City unless federal or state legal authority provides otherwise. All other records shall be the property of the state. Property rights to City records may not be permanently transferred from the City to any private individual or entity, including those legally disposable obsolete City records of City archives or other agencies. This prohibition does not include the providing of record copies for release or distribution

under this chapter. All records disposals shall be conducted in accordance with policies and procedures.

- C. Any City officer or employee having custody or control of any City records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the City records manager.
- D. All records which are in the possession of any City agency shall, upon termination of activities of such agency, be transferred to any successor agency or to City records management and archives, provided that such transfer is consistent with the formal provisions of such termination.

#### 2.82.160 - Receipt, storage and preservation.

There is created the City archives and records services section, to be managed by the City records manager. It is the responsibility of the section to receive, store, and preserve City agency records and other materials and to store and to provide reasonable access thereto as may be calculated to accurately and safely maintain City records over a long term in compliance with this chapter and the Act. Policies and guidelines regarding the nature of records and record series which are to be received and stored by City records management and archives shall be developed and promulgated by the records policy administration. City records management and archives shall be considered the formal, official repository of City records; the central depository for the reports, publications, productions in other media, rules, policies and regulations of the City, where not otherwise determined by law; and, where appropriate, historical artifacts. Each agency shall be responsible for assisting City records management and archives in the collection of such records, depository materials, and artifacts through methods promulgated by the records policy administration.

#### 2.82.165 - Retention scheduling.

- A. All City records as defined by the Act, whether hard copy, electronic or otherwise, shall be scheduled for retention and retained based on the standards and requirements set out in the Act and this ordinance.
- B. The responsibility for developing retention schedules shall reside with the City offices, departments and divisions, with the assistance and advice of the City records manager. Retention schedules may be subject to review and approval by the Government Records Access and Management Policy Administration.
- C. In scheduling records for retention, the following considerations shall be taken into account:
  - 1. Any specific retention requirement established by law, statute or ordinance;
  - 2. Reasonable records standards and needs, based on best business practices, retention storage capabilities, and particular industry or professional requirements or standards;
  - 3. Legal needs, including pending or likely litigation;
  - 4. Applicable statutes of limitation;
  - 5. Any pending fiscal or performance audit process;
  - 6. Administrative and policy needs; and
  - 7. Historical value.
- D. Based on the considerations in subparagraph C, a record may have an extremely limited retention schedule, permitting the deletion of a record immediately or after administrative need ceases. Such records may be deleted immediately and without further processing.
- E. Offices, departments and divisions should observe and adhere to all applicable retention schedules. Records which have reached the end of their retention schedules should be deleted, removed or destroyed in a timely manner.

#### 2.82.170 - Computerized and non-written format records.

- A. The City retains and reserves to itself the right to use any type of formats for the storage, retention and retrieval of government records, including, but not limited to, audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging, or electronic information storage or processing equipment or systems, which are not prohibited by State Statute and do not compromise legal requirements for record storage, retrieval, security and maintenance, to store and maintain City records. All computerized and non-written format records and data which are designated and classified in accordance with the act and this chapter, shall be made available to a requester in accordance with this chapter and the Act.
- B. The methods of access to records in non-written formats or data processing systems shall be as determined appropriate by the agency director of the agency maintaining the records, considering all circumstances. Access may include, but not be limited to, the following:
  - 1. By using a City computer workstation, data system or other viewing or listening device to retrieve data directly from the workstation screen or device; provided, however, that due regard shall be exercised to ensure that any nonpublic records will not be accessed, retrieved or displayed on the device and that records are not erased or damaged;
  - 2. By providing paper or "hard" copies of record printouts or by providing magnetic tapes, disks or other means of electronic storage containing the non-written format or data processing system records; or
  - 3. By the use, where appropriate, of remote workstations which have access to City computer, data processing or electronic information systems pursuant to a formal two-party contract permitting such remote terminal access and provided that due regard shall be exercised to ensure that nonpublic records will not be available by remote terminal access.
- C. Computer software applications are not considered a record. Software applications shall not be subject to disclosure under this chapter or the Act, including copyrighted software applications and other copyrighted materials which have been purchased by or licensed to the City and software applications and other materials which have been copyrighted by the City.

#### 2.82.180 - City justice court system.

Records activities of the City justice court system shall comply with and be governed by Section 63-2-702 of the Act.

#### 2.82.190 - Violation—Penalty.

Knowing violation of this chapter is a misdemeanor, punishable as set forth in this code of ordinances.

#### Chapter 2.83 - EMPLOYEE RELATIONS - Reserved

#### Chapter 2.84 - EMPLOYEES' SAFETY PROGRAM

##### 2.84.010 - General policy.

In order to provide a more effective and efficient City government, it is declared to be the policy of Millcreek City to promote and encourage the conservation of human, material and financial resources of the City by means of a safety program to be conducted among employees of the City for the purpose of improving their understanding and application of sound safety practices in the conduct of City government. Safety, courtesy and respect for the rights and privileges of others are declared to be a part of every employee's duty.

##### 2.84.020 - Safety committee—Established.

- A. There is established a City safety committee consisting of seven members, as follows:
  - 1. Risk manager;
  - 2. One member to be appointed by each major department;
  - 3. Representative of the health department;
  - 4. Personnel director.
- B. The responsibility for the administration of the City safety program will rest with the personnel director acting with the risk manager.

#### 2.84.030 - Safety committee—Meetings.

The City safety committee shall meet as necessary to perform its assigned responsibilities. Meetings are to be held at times and places and after such notice as shall be decided by the committee.

#### 2.84.040 - Safety committee—Powers and duties.

- A. It shall be the responsibility of the safety committee to do the following:
  - 1. Develop, implement and supervise an effective safety program for City government;
  - 2. Plan, provide and supervise appropriate training in safety practices and procedures for City employees;
  - 3. Provide for and furnish posters, notices, bulletins, training aids and other materials needed in the safety program; and
  - 4. Recommend such rules and procedures as are required by sound safety practices and principles for an effective and uniform safety program throughout City government.
- B. Individual departments of City government may also establish rules and procedures that are consistent with sound safety practices and are designed to meet special needs and circumstances of the department; however, such departmental safety rules and procedures shall be submitted in a manner consistent with other policies.

### Chapter 2.86 - EMERGENCY RESPONSE AND RECOVERY

#### 2.86.010 - Intent—Liberal construction.

It is the intent of this chapter to provide the organization, powers and authority necessary to enable the timely and effective use of all available City resources to prepare for, respond to and recover from emergencies and disasters likely to affect the health, security, safety, or property of the inhabitants of the City. It is intended to grant the broadest powers permitted. The provisions of this chapter shall be liberally construed to allow for the greatest opportunity to preserve and protect life and property.

#### 2.86.020 - Definitions.

As used in this chapter:

"Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America, the State of Utah, or Millcreek City.

"Disaster" or "emergency" means a situation causing or threatening to cause widespread damage, injury or loss of life, or significant property damage resulting from an attack, internal disturbance, natural phenomena, public health emergency, or technological hazard.

"Internal disturbance" means a riot, prison break, disruptive terrorism, or a widespread strike, which strike causes significant social disruption or injury to persons or property.

"Natural phenomena" means any earthquake, tornado, storm, flood landslide, avalanche, forest or range fire, drought or epidemic.

"Public health emergency" means an occurrence or imminent credible threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease, or novel and highly infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster Utah Code Ann. § 26-23b-102(b).

"State of emergency" means a condition in Millcreek City which requires City government emergency assistance to save lives and to protect property, public health and safety, and to reduce the threat and effects of a disaster.

"Technological hazard" means any hazardous materials spill or accident, mining accident, train derailment, aircraft crash, radiation incident, pollution, structural fire or explosion.

#### 2.86.030 - Declaration of an emergency.

- A. The mayor is authorized to declare a state of emergency when the mayor finds that the City or any part thereof is suffering from or is in imminent danger of suffering an emergency or disaster.
- B. Any declaration of an emergency or disaster by the mayor shall be promptly filed with the City clerk and the public shall be notified through general publicity of the declaration. The mayor shall promptly notify the City Council of any declaration of an emergency or disaster.
- C. The declaration of an emergency or disaster shall be in effect as determined by the mayor for a period of up to thirty days in accordance with the Utah Disaster Response and Recovery Act, Utah Code Ann. § 63-5a-6. This period may be continued or renewed only upon the approval of the City Council. The Council may, by resolution, express its opinion regarding an emergency declaration by the mayor.
- D. The declaration of an emergency provided in this chapter shall become effective immediately upon issuance by the mayor and the only required publication is the general dissemination to the public by appropriate news media.
- E. The declaration shall, to the extent possible, state the nature of the emergency, the area threatened, and any applicable duration, conditions, actions or needs pursuant to Section 2.86.050. The declaration may be amended and periodically brought up to date as needed.

#### 2.86.040 - Succession.

- A. If the mayor is unavailable to perform the duties set out herein, the deputy mayor shall have the same authority as granted to the mayor. If both the mayor and deputy mayor are unavailable, the authority to exercise the powers set out in this chapter vests in the City chief administrative officer, the chair of the City Council, or the sheriff, in that order.
- B. Notwithstanding the order of succession set forth in subsection A, if the mayor is unavailable to issue an evacuation order as set forth in Section 2.86.050, only the sheriff may issue an evacuation order, including any orders establishing evacuation routes, for a period not to exceed thirty-six hours, if the order is necessary for the preservation of life. The mayor may ratify, modify, or revoke the sheriff's order if he becomes available.
- C. By July 1st of every year, each City elected official, except for members of the City Council, shall designate three emergency interim successors, specify the order of succession, and provide the list of those persons to the mayor, as set out in Utah Code Ann. § 63-5b-401. The mayor may direct that department heads of the mayor's office also designate three successors. During a state of emergency, if a City elected official is unavailable or unable to perform the duties of the office, those persons designated as emergency interim successors may be vested with all legal power and authority of the elected or appointed official who is being succeeded. An emergency interim successor shall exercise those powers and duties only until the elected official is able to perform the duties of office or, in the event of a permanent vacancy, until that vacancy is filled in accordance with state law.

- D. By July 1st of every year, each member of the City Council shall designate one emergency interim successor and deliver to the mayor the name of that successor. During a state of emergency, if a City Council member is unavailable or unable to perform the duties of the office, those persons designated as emergency interim successors may be vested with all legal power and authority of the City Council member who is being succeeded. The emergency interim successor shall only exercise those powers and duties until the Council member is able to perform the duties of office or, in the event of a permanent vacancy, until that vacancy is filled in accordance with state law.

2.86.050 - Powers of the mayor.

- A. In a state of emergency, declared by either the mayor or the governor, the mayor is empowered to make all necessary efforts to respond to, prevent, or ameliorate the effects of an emergency or disaster, including, but not limited to, using all City resources, issuing evacuation orders, establishing evacuation routes, suspending the sale of alcoholic beverages, controlling entry to and exit from any disaster area, clearing or removing debris or wreckage, invoking the provisions of any mutual aid agreement with another governmental entity, and such other powers and authority which are reasonably necessary for the preservation of life and property and as may be set out the Utah Disaster Response and Recovery Act, Utah Code Ann. § 63-5a-4.
1. The mayor shall have full power to secure the availability of supplies, clothing, vehicles, fuel, equipment, food and water as may be reasonably necessary to respond to the emergency. Emergency procurement may be accomplished by utilizing the procedures set forth in Chapter 3.20.040 of the Millcreek City Code of Ordinances, 2001.
  2. The mayor's authority does not extend to an emergency wholly located within a municipality unless the governing body of the municipality requests relief and assistance from the City or to the extent assistance is provided pursuant to an interlocal or mutual aid agreement.
- B. In a state of emergency, the mayor may exercise emergency powers and functions in response to the exigencies of the disaster, including waiving compliance with any time consuming procedures and formalities, including notices, as may otherwise be required.
- C. In a state of emergency, the mayor may issue any and all such other orders or undertake such other functions and activities as the mayor reasonably believes is required to protect the health, safety, or welfare of persons or property within the City or to otherwise preserve the public peace or to abate, clean up, or mitigate the effects of any emergency or disaster. Rules and regulations adopted by the mayor in response to the state of emergency have the force and effect of law, upon filing with the City clerk. All rules and regulations adopted in response to a state of emergency shall expire once the state of emergency is no longer in effect.
- D. In a state of emergency, the mayor is responsible to appoint City employees or agencies to perform the following activities during the emergency:
1. Coordinate the activities and management of private volunteers, including maintaining records of volunteer work in accordance with Federal Emergency Management Agency (FEMA) needs;
  2. Ensure that all records and receipts for funds expended in emergency response are maintained in accordance with FEMA needs;
  3. Coordinate and ensure prompt communication with the media about the emergency, providing to the extent possible, one consistent voice regarding City activities;
  4. Maintain ongoing communication with the City Council, City elected officials and other government entities.
- E. In the event of a public health emergency, the mayor may declare a state of emergency at the request of the director of the health department or the board of health. To prevent or contain the outbreak and spread of a communicable or infectious disease, the mayor, together with the director of the health department, may issue orders to:

1. Close theaters, schools and other public places and prohibit gatherings of people when necessary to protect the public health. (Utah Code Ann. § 26A-1-114(1)(e));
  2. Exercise physical control over property and over individuals as the Health Department finds necessary for the protection of public health. (Utah Code Ann. § 26A-1-114(1)(b));
  3. Exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, if the person is likely to convey the disease to those in attendance. (Utah Code Ann. § 26A-1-114(3)(b));
  4. The authority of the director of the health department extends to a public health emergency wholly located within a municipality.
- F. 1. The sheriff's office and such other law enforcement and peace officers as may be authorized by the mayor are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter.
2. During the period of a declared emergency or disaster, a person shall not:
    - a. Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
    - b. Violate any orders duly issued by the mayor or authorized personnel; or
    - c. Willfully obstruct, hinder, or delay any duly authorized City officers, employees or volunteers in the enforcement or exercise of the provisions of this chapter, or in the undertaking of any activity pursuant to this chapter.

#### 2.86.060 - Powers of the City Council.

- A. Nothing in this chapter shall prevent the City Council from acting as the legislative body of City government in a state of emergency, or from exercising those powers and authorities set out in State Statute and in the plan. The Council's legislative authority shall include the power to legislate, budget, and appropriate and to perform any other duties as required by State Statute and by the plan.
- B. The City Council shall also fulfill those duties and responsibilities as required by any emergency response declaration or order to the extent it does not conflict with federal, state, or local law, or the provisions of this chapter.

#### 2.86.070 - Relocation of offices.

- A. Whenever an emergency or disaster makes it imprudent or impossible to conduct the affairs of the City at its regular locations, the mayor, City Council, elected officials, departments, and divisions may meet at any safe and convenient place, inside or outside Millcreek City. Any temporary meeting location shall continue until a new location is established, the emergency or disaster is terminated, or City operations are able to return to their normal locations.
- B. Any official act or meeting required to be performed at any regular location of the mayor, City Council, elected officials, or any department is valid when performed at any temporary location under the terms of this section.

#### 2.86.080 - Mutual aid.

- A. The mayor may, on behalf of the City, enter into such reciprocal aid, mutual aid, intergovernmental cooperation agreements or other contracts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and services and do not require fair and adequate consideration.
- B. The City may act as a participating political subdivision consistent with the Statewide Mutual Aid Act, Utah Code Annotated § 53-2-401 et seq.

#### 2.86.090 - Contracts for goods and services during an emergency.



- A. In accordance with the provisions of Section 3.20.040 of this code of ordinances, the City or any of its officers, employees, committees, or agencies may acquire goods and services in response to the exigencies of the emergency or disaster as are necessary and the mayor may suspend or waive compliance with time consuming ordinances (excluding Section 3.20.040 of the City code), policies, procedures and formalities prescribed by law pertaining thereto, including City purchasing ordinances regarding the acquisition of goods and services.
- B. The purchasing agent shall prepare and maintain a list of persons in each department or office who are authorized to act as emergency procurement designees, in accordance with Section 3.20.040(C).

#### 2.86.100 - Criminal penalties.

Any person who knowingly refuses to comply with an order to evacuate issued under this chapter or who refuses to comply with any other order issued during a state of emergency, as provided in this chapter and after notice of the order has been given to that person, is guilty of a Class B Misdemeanor.

#### 2.86.110 - Emergency management advisory committee.

- A. An emergency management advisory committee is created for the purpose of providing advice to the mayor and City Council on matters, policies and issues relating to City government emergency or disaster planning, mitigation, response and recovery actions. The committee's activities shall include, but are not limited to:
  - 1. Coordinating emergency management policy implementation;
  - 2. Overseeing emergency management training for employees and members of the public;
  - 3. Making recommendations to the City Council regarding policies, procedures, or ordinance changes and amendments;
  - 4. Developing an emergency operations plan, including providing for the continuity of City operations and essential functions;
  - 5. Giving consideration to and making recommendations regarding a current list of private sources of aid and materials and of private contractors who may be able to assist in an emergency;
  - 6. Making recommendations regarding "pre-contracts" and ongoing relations with private sources of aid and materials; and
  - 7. Reviewing and making recommendations regarding interlocal and mutual aid contracts with other government activities for services in an emergency.
- B. The committee shall report any finding or recommendation to the mayor and City Council.
- C. The committee shall meet at the direction of the mayor or the mayor's designee.
- D. The emergency management advisory committee shall consist of:
  - 1. The mayor or the mayor's designee;
  - 2. The assessor, auditor, clerk, district attorney, recorder, sheriff, surveyor, and treasurer or said officials' designees;
  - 3. One representative of each of the following City departments or divisions: Public works, community services, administrative services, human services, personnel, health department, and unified fire authority;
  - 4. Two council members or designees;
  - 5. One citizen member who has experience and training in emergency preparation and response, appointed by the mayor; and
  - 6. Successors of any member, if that member is unable to participate.

- E. The committee shall be chaired by the emergency management coordinator or other mayor's designee.
- F. The committee may create and appoint its members to technical and other specialized subcommittees as needed to fulfill its obligations under this section.
- G. A quorum of the committee consists of nine persons and attendance by a quorum is required for any committee vote or action to be effective.
- H. In the event of an emergency or disaster and the mayor determines that a recommendation of the committee is either not available or not practicable, the mayor may waive that requirement or recommendation as needed to meet the needs of the public.

#### 2.86.120 - Severability.

The provisions of this chapter are declared to be severable, and if any provision of this chapter shall, for any reason, be held to be invalid or unconstitutional or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining provisions of the ordinance codified in this chapter.

#### Chapter 2.88 - HISTORIC PRESERVATION COMMISSION - Reserved

#### Chapter 2.91 - HOUSING TRUST FUND— Reserved

#### Chapter 2.92 - CITY PROCESS FOR REVIEW OF REQUESTS FOR FEASIBILITY STUDIES AND PETITIONS<sup>3</sup>

##### 2.92.010 - Provisions.

The ordinance codified in this chapter shall enact the City process for review of requests for feasibility studies, annexation petitions, city sponsored annexations, withdrawal petitions, and dissolution petitions and other boundary related actions within the City in accordance with and pursuant to the requirements of the Utah Code.

##### 2.92.020 - Statutory authority.

The authority for establishing this procedure is derived from Title 10, Chapter 2, Parts 1, 4—7 and Title 17, Chapter 27a, Section 306 of the Utah Code.

##### 2.92.030 - Purpose of provisions.

The ordinance codified in this chapter is enacted to establish a process within the City for review of requests for feasibility studies, annexation petitions, city sponsored annexations, withdrawal petitions, and dissolution petitions and other boundary related actions. The ordinance shall create a review committee to review petitions, city sponsored annexations and other boundary related actions, and to determine whether the requests comply with the statutory requirements in accordance with the provisions of the Utah Code.

##### 2.92.040 - Annexation petitions and city sponsored annexations.

- A. Copies to City. Copies of all pages of a petition proposing annexation into a municipality located within the City, including a description of the area and a map or plat, shall be delivered or mailed to the City clerk, pursuant to the Utah Code, on the same date as the original petition is filed with the recorder or clerk of the municipality into which the annexation is proposed. The City clerk, on the date the petition is received in that office, shall stamp on each petition page the date of receipt.
- B. Notice to Review Committee. Upon receipt of the copies of the annexation petition, the City clerk shall provide notice to the review committee and the attorney of the receipt of said annexation petition. This notice shall include the name of the annexing municipality, the date that the petition was filed with the

city recorder/clerk, a description of the boundaries of the proposed annexation as provided by the petition sponsors to the clerk, and such other detail as is pertinent to the proposed annexation.

- C. The review committee shall request information from the appropriate City agencies regarding the nature, location and status of any City-owned property, buildings, parks, infrastructure and other facilities located within the area proposed for incorporation or annexation. The committee shall review the use and status of those City facilities to determine the best disposition of the facilities, should the area in question become part of a municipality. The committee shall make a recommendation to the City Council and mayor regarding those facilities.
- D. Review. After receipt of notice from the clerk of the filing of said annexation petition, the review committee shall consider the annexation proposal and the impact of the petition on the interests of the City.

The review committee shall complete its review and make a recommendation in a timely manner to the City Council and the attorney. At the time the recommendation is submitted to the City Council and the attorney, a copy of the recommendation shall be provided to the annexing municipality.

- E. Upon receipt of the recommendation, the City Council shall take whatever action it deems appropriate with regard to said annexation petition within the time limitations prescribed by law.
- F. City Sponsored Annexations. The review committee shall conduct an independent review of all city sponsored annexations made pursuant to Utah Code Annotated Section 10-2-418. The review committee shall complete its review and make a recommendation in a timely manner to the City Council.

2.92.050 - Reserved.

2.92.060 - Reserved.

2.92.070 - Withdrawal and dissolution petitions.

Upon receipt of a petition to withdraw an area from a township or a petition to dissolve a township, the City clerk shall refer the petition to the review committee. The committee shall review the petition and provide the City clerk in a timely manner with a recommendation. The clerk shall certify the petition if it complies with the statutory requirements as set forth in the Utah Code. Based upon the recommendation of the committee the City clerk shall either certify the petition to the City Council or reject the same, in accordance with the provisions of the Utah Code. The City Council shall process withdrawal and dissolution petitions as required by Utah law.

2.92.080 - Review committee.

A review committee shall be created as per recommendations of the Mayor/Council. This committee shall establish policies and procedures to govern the internal operation of the review committee and its review of petitions and requests for feasibility studies that are received or filed with the City. The committee may require the assistance of additional staff from each of the representative offices as necessary to accomplish their duties and responsibilities.

2.92.090 - City assistance to municipal recorder/clerk with annexation petitions.

The City clerk, the City recorder, and the City surveyor shall assist the municipal recorder or clerk with annexation petitions filed with the municipality as required by Utah Code Annotated Sections 10-2-405(2)(a) and (4). The duties of these City offices, in assisting the municipal recorder or clerk, shall be limited to providing such information and records that are within the jurisdiction, possession, and control of the named City office. Said requests for assistance shall be reasonable and shall not be excessive or burdensome to the named City office. The City may establish by policy a schedule for all costs incurred in providing the assistance requested as required by these statutory provisions.

2.92.100 - Land use applications prior to incorporation - Reserved.

Chapter 2.93 - OPEN SPACE TRUST FUND— Reserved

Chapter 2.95 - CITY BUDGET PROCESS

2.95.010 - Provisions.

This chapter shall define the process of preparation, revenue projection, tax rate setting, hearings, adoption and modification of the annual fiscal year City budget. The chapter further defines the responsibilities of the mayor, council, offices, departments and agencies of the City in the process as defined by law and the charter.

2.95.020 - Definitions.

"Final budget" means the budget finally adopted by the Council pursuant to its legislative authority.

"Proposed budget" means the budget prepared in the format of the tentative budget by the mayor and forwarded to the Council pursuant to the mayor's executive authority.

"Tentative budget" means the budget prepared and submitted by the auditor to the mayor for further executive action and preparation of a proposed budget pursuant to the statutory authority of the auditor, including projected revenues and the auditor's budget message.

2.95.030 - Authority.

This chapter is based upon the requirements of The Optional Forms of City Government Act, 17-52, 17-53 et seq. U.C.A., City Auditor, 17-19 et seq. U.C.A., Uniform Fiscal Procedures Act for Counties, 17-36-1 et seq., Utah Code Annotated (1953), Utah Property Tax Code, Title 59, Utah Code Annotated (1953) and the plan.

2.95.040 - Purpose.

This chapter is enacted to establish a process for the preparation, review, modification, adoption and reopening of the City budget which shall include all the funds and accounts that are required to be maintained by the City including special districts within the authority of the City. The process includes the required forms, time lines and assignments to adopt and modify a budget by the Council.

2.95.050 - Tentative and proposed budgets.

- A. All offices, agencies and departments, including the Council, shall prepare and submit to the mayor by October 1 of each year a requested budget in sufficient detail, content and scope and in a manner and on forms approved pursuant to the Uniform Fiscal Procedures Act.
- B. The mayor shall review the requested budgets for consistency with statute, ordinance and Citywide fiscal and budget policies including the Fiscal Procedures Act and recommend modifications where necessary after consultation with the affected offices, agencies and departments.
- C. The mayor shall submit to the Council the tentative budget, including projected City revenues, the mayor's budget message and budget requests for all funds, along with any additional items requested by the Council, with recommendations as the mayor feels appropriate, fourteen or more days before the date of the regular general election or municipal general election held in the current calendar year.
- D. The mayor shall prepare a proposed budget for all City offices, departments and agencies, to be submitted to the Council and to the public by November 1 of each year and may hold budget meetings with all affected offices, agencies and departments to assist in preparing the proposed budget. The mayor shall give any affected offices, agencies and departments an opportunity to be heard in budget meetings if the mayor proposes a modification to any requested or tentative budget appropriation of

an office, agency or department. The mayor may request the assistance of the auditor and attorney and may hold budget meetings jointly with the Council. The time for submittal of the proposed budget may be continued if requested by the mayor and approved by a majority of the Council. The proposed budget shall include the mayor's revenue projections and budget message, the mayor's revenue proposals and comments, if any, and proposed tax or fee increases, if any. The Council shall reject any tax increase or increases not submitted to the public by November 1 unless the delay was caused by a state of emergency or disaster as defined by State Statute.

- E. In preparing the proposed budget, the mayor shall include a budget for capital improvements and maintenance in the capital improvements fund. The property tax rate for capital improvements shall not be considered fungible with the other tax funds of the City.
- F. The mayor shall submit a budget calendar outlining all applicable budget related dates prior to September 1 of each year for council approval.
- G. Prior to adoption, the mayor and council may hold joint meetings for purposes of preparing a tentative, proposed or final budget.
- H. The mayor may revise and update revenue projections and expenditure projections throughout the budget process and fiscal year and shall notify the Council as soon as possible of any adjustments to the revenue projections in the tentative, proposed and final budgets.
- I. In the event an unforeseen reduction in revenue or other event that may require the Council to make an urgent or emergency appropriation or funding shift, the mayor or the mayor's designee shall immediately notify the members of the City Council. Within one business day of receiving, notice from the mayor or mayor's designee, the Council chair, vice-chair or temporary chair shall call a special meeting or emergency meeting to discuss any necessary emergency appropriation or funding shift. The Council chair, vice-chair or temporary chair shall provide notice and conduct the special meeting or emergency meeting consistent with the Utah Open and Public Meetings Act. At the special or emergency meeting:
  - 1. The mayor or designee shall brief the Council on the nature of the unforeseen reduction in revenue and on the mayor's contingency plan to address the loss of revenue.
  - 2. The mayor or designee may make a request for an urgent or emergency appropriation or budget shift if necessary. The Council may only make an emergency appropriation or budget shift if it determines that the public health, safety and welfare require action.

#### 2.95.060 - Council budget—Final budget.

- A. The Council shall adopt by resolution a final budget on or before December 10 of each year for the following calendar fiscal year. The recommended final budget of the Council shall be posted in the offices of the clerk, auditor and mayor for at least ten days prior to the public hearing. No budget may be adopted or considered unless it has been prepared and reviewed as provided in this chapter. The Council, after consultation with the mayor, shall set the date for the time and place of the public hearing on the final budget, and advise, prior to December 1 the mayor, treasurer and auditor of the date of the public hearing, and cause the notice to be published and posted. The Council shall also publish any notices in regard to truth in taxation requirements or tax increases. The Council may hold public hearings as required. The Council may also hold public budget meetings with the mayor and affected offices as needed, including a referral to the legislative committee. All interested parties shall have an opportunity to be heard at the public hearing pursuant to rules established by the Council. Adjustments may be made by the Council after the public hearing on the recommended final budget. The final budget shall be available in the offices of the Council, mayor, and auditor during business hours for public inspection. The auditor shall file with the state auditor a certified copy of the final budget within thirty days after adoption.
- B. The Council shall not shift any of the capital improvement tax funds to other funds or accounts of the City.

#### 2.95.070 - Budget line item vetoes.

The mayor may veto a line item in a final budget as provided in the plan, State Statute and these ordinances and as described in the powers of the mayor, subject to override by the Council.

#### 2.95.080 - Budget limitations.

The mayor shall propose no budget and the Council shall adopt no final budget or make any appropriation in the final budget of any fund that exceeds the estimated expendable revenue, including fund balances and reserves, of the fund for the fiscal year as required by section 17-36-17 U.C.A. Any tax increase shall meet the requirements of State Statute.

#### 2.95.090 - Final adopted budget amendments.

Subject to line item veto by the mayor, the Council may amend a final fiscal year budget pursuant to law and any budget increase in any fund shall require five days notice and a public hearing except under emergency conditions declared by the Council.

#### 2.95.100 - Tax rates.

The Council shall set tax rates for each fund before June 22nd of each calendar year unless the time is extended by law or by the state tax commission. Budgets may be amended as provided by law at the time of setting tax rates. The Council may require additional budget hearings and information from the offices, agencies and departments as provided in this chapter to assist in amending the budget or setting tax rates. The Council shall set the date, time and place for setting the tax rates and cause appropriate publication and posting, including statutory notices.

#### 2.95.110 - Budget and financial policies.

The Council may provide by Citywide policy or procedure for additional requirements for all offices, departments and agencies of the count in regard to the budget process not inconsistent with law. The mayor may adopt policies or issue orders not inconsistent with law or these ordinances in regard to the budget process. The auditor may recommend proposed budget and financial policies to the mayor and council. The Council shall adopt a set of fiscal or financial policies and standards and make them a part of the annual budget process.

### Chapter 2.97 - DEBT REVIEW COMMITTEE

#### 2.97.010 - Debt review committee created.

Millcreek City hereby establishes an eight member committee to be known as the Debt Review Committee, which shall review all proposed debt issuance with a repayment schedule that extends beyond the current fiscal year.

#### 2.97.020 - Purpose of the committee.

The committee shall analyze all proposed debt issuance for financial suitability and viability. This review shall include the proposed terms of issuance, length of issue, repayment structure, credit worthiness of the borrower and other factors as required. The committee will match the type of debt to the project to assure prudent use of debt, protection of the City's bond rating, and maximization of benefit to the City and its citizens. Upon completion of its review, the committee shall forward its analysis and any recommendations to the City Council and mayor for further action. The committee shall perform such other review as is requested by the Council or the mayor.

#### 2.97.030 - Multi-year purchases subject to review.

The City capital projects committee will refer to the debt review committee for its review any real or personal property purchase requests which require or propose payments extending beyond the current

fiscal year and which contemplate or provide an option for City ownership of the asset upon completion of the payment schedule.

#### 2.97.040 - Powers of the committee.

The committee shall review all debt issuance to include all multi-year capital asset borrowing and all debt issues of Millcreek City, the municipal building authority of Millcreek City, the redevelopment agency of Millcreek City or any special district created and governed solely by Millcreek City. The committee shall also review conduit debt issuance on behalf of third party entities when the City acts either as the issuer or is a participating entity pursuant to a duly executed interlocal agreement.

#### 2.97.050 - Membership.

The committee shall be composed of eight members consisting of the mayor or mayor's designee, the mayor's chief financial officer, one individual from the Council office chosen by the Council, the Council budget director, two members of the City auditor's office designated by the City auditor, the City treasurer or designee, the district attorney or designee. The chair of the committee shall be rotated annually among the members representing the City auditor, district attorney and City treasurer. The City's financial advisor shall serve as a non-voting, ex-officio member of the committee.

#### 2.97.060 - City purpose for issuing conduit financing obligations.

##### A. Not-for-Profit Conduit Financing.

1. The City will not issue conduit financing obligations for any not-for-profit entity other than a Utah not-for-profit corporation possessing a current determination from the Internal Revenue Service that it currently qualifies as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code.
2. The applicant must demonstrate that the proposed project fulfills or complements a legitimate City purpose as defined by state law or reduces a public burden that is currently imposed on Utah governmental entities. Specific attention and consideration will be given to projects which expand opportunities or services for populations that are currently under served.

##### B. For-Profit Conduit Financing Obligations. The City may, at its discretion, act as an issuer for conduit financing obligations for other entities if the proposed project qualifies for financing under Utah's Private Activity Bond Authority as an eligible project for the small issue account or the exempt facility account, including multi-family housing projects, pollution and waste control projects, and qualifying small manufacturing projects.

#### 2.97.070 - Fees imposed.

The City shall impose and collect the fees set forth in the attached fee schedule (Attachment A) whenever the City evaluates a proposal for the issuance of debt or issues debt to compensate the City for costs incurred in reviewing the proposed issue, any revenue lost to the City by virtue of the project, any risk assumed by the City in issuing the debt, and the costs of issuance including reimbursement of the City for time devoted by City officers and employees and resources provided by the City. Fees imposed pursuant to this ordinance shall not be waived; provided, however, that fees may be reduced at the sole discretion of the City Council for refunding requests from entities that provide significant public benefit.

#### 2.97.080 - Information required.

Each applicant shall submit an application to the City on forms and in a format specified by the committee. Application forms shall be obtained from the chair of the committee. No application shall be considered unless and until all information specified in the application or requested by the debt review committee is provided and the application fee has been paid. The debt review committee, the City Council, or City mayor may request such additional information as deemed necessary to evaluate the proposed issuance.

## 2.97.090 - Credit worthiness for conduit issues.

The City will not act as an issuer on behalf of any third party unless the following credit worthiness is established:

- A. Governmental entities must have a bond rating from a national rating agency of "A" or higher;
- B. Private entities must have a bond rating from a national rating agency of investment grade or higher or must provide credit enhancement in the form of a direct pay letter of credit (LOC) or bond insurance in a form acceptable to the City. Any LOC guarantee must be issued by a bank authorized to do business in the state of Utah with a rating on no less than "A". Bond insurance shall be by a national insurer acceptable to the City.
- C. Private entities proposing a direct private placement of the debt issue must provide a letter from the purchaser describing the direct purchaser as a sophisticated "accredited investor" within the meaning of Section 2(15) of the Securities Act of 1933.

### Attachment A

#### MUNICIPAL AND CONDUIT FINANCING FEE SCHEDULE - Reserved

- A. Application Fee. Any party requesting the City to act as an issuer on its behalf shall submit an initial application containing such information as is required by the City and pay a nonrefundable application fee of two thousand five hundred dollars for a new issue and five hundred dollars for a refunding issue. This fee, when received, shall be applied as a credit against the issuance fee.
- B. Issuance Fee—New and Refunding Issues. \$7,500.00 plus:
  - 1. 0.15% per first \$5,000,000.00 in principal;
  - 2. 0.10% per second \$5,000,000.00 in principal;
  - 3. 0.075% per third \$5,000,000.00 in principal; and
  - 4. 0.05% for all amounts in excess of \$15,000,000.00.

The minimum fee for any issue shall be fifteen thousand dollars. All issuance fees shall be payable at closing.

- C. Annual Maintenance Fee. In addition to the application and issuance fees, a conduit borrower shall be subject to an annual maintenance fee to be paid to the City. Calculation and payment of the fee to the City shall be provided for in the bond documents, made annually on the anniversary date of the issuance, and shall be a duty of the trustee. The fee shall be calculated at an annual rate equal to four basis points (four one-hundredths of one percent) of the principal amount of the bonds then outstanding. The minimum annual maintenance fee for any issue shall be one thousand dollars and the maximum annual maintenance fee for any issue shall be ten thousand dollars.