

DRAFT ORDINANCE #10-02

CHAPTER 2.04

SIX-MEMBER COUNCIL FORM OF MUNICIPAL GOVERNMENT ADOPTED

SECTION

2.04.010: ESTABLISHED:

A. Established. There is established a Six-Member Council Form of Municipal Government for Smithfield, Cache County, Utah.

B. Governing Body: The powers of the municipal government are vested in a Council consisting of six members, one of which is the Mayor.

C. Powers and Duties: The Governing Body shall exercise the legislative and executive powers of Smithfield, except as may be legally delegated to the Mayor, by State or City law, and may perform such other functions as may be specifically provided or necessarily implied by law. It is the responsibility of the Governing Body to adopt, ordain, and resolve by majority vote of a quorum of the Governing Body, all laws, ordinances, resolutions, policies and procedures of Smithfield, except as may be legally delegated to another City body or official.

CHAPTER 2.08

CITY COUNCIL

2.08.010 GOVERNING BODY: The City Council shall constitute the legislative and governing body of the City and as such shall have, exercise and discharge all of the rights, powers, privileges and authority conferred by law upon the City Council and shall perform all duties required of them by law, and shall perform such other acts and take such other measures, not inconsistent with law, as may be necessary for the efficient government of the City.

The City Council may:

A. Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct and business of the City;

B. Prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;

- C. Require by ordinance that any or all appointed officers reside in the City; and
- D. Perform any function provided for by statute or necessarily implied by law.

2.08.015 TIME OF REGULAR COUNCIL MEETING: The governing body shall hold two (2) regular meetings each month or as otherwise set forth by resolution.

2.08.020 QUORUM: No action of the City Council shall be official nor of any effect except when a quorum of the members are present. Three (3) members of the City Council, excluding the Mayor, are necessary to constitute a quorum. The City Council shall have power to compel the attendance of its own members.

2.08.030 VOTING:

A. The minimum number of “yes” votes required to pass any ordinance or resolution, or to take any action by the City Council, unless otherwise prescribed by law, shall be a majority of the voting members of the quorum, but shall never be less than three (3).

B. Any ordinance, resolution or motion of the City Council having fewer favorable votes than required in this chapter shall be deemed defeated and invalid.

C. A majority of the remaining members of the City Council, regardless of number, may fill any vacancy in the City Council in accordance with state law, and notwithstanding Subsection B, a Council meeting may be adjourned to a specific time by a majority vote of the Council even though the majority vote is less than required by this section.

D. A roll call vote shall be taken and recorded for all ordinances and resolutions, and for any action which would create a liability against the municipality, and in any other case at the request of any member of the governing body, by a “yes” or “no” vote, and such roll call vote shall be recorded.

E. Every ordinance or resolution shall be in final written form before the vote is taken.

F. Any action taken by the City Council in a regular meeting shall not be reconsidered or rescinded at any special or emergency meeting unless the number of members of the City Council present at the special meeting is equal to or greater than the number of City Council members present at the meeting when the action was approved.

2.08.040: AGENDA: All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the governing body shall be delivered to the Recorder/Clerk, at least forty-eight (48) hours prior to each governing body meeting, whereon the Recorder/Clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the governing

body, and when present, the attorney, with a copy of the same prior to the governing body meeting and as far in advance of the meeting as time for preparation will permit. Only the foregoing matters shall be presented to the governing body by administrative officials, except those of an urgent nature, provided that the governing body may, by motion, waive the requirements of this section.

2.08.050 ORDER OF BUSINESS: At the time and place set for each meeting of the members of the governing body, the business of the municipality shall be taken up for consideration and disposition as provided for by the agenda.

2.08.060 RECORD OF PROCEEDINGS: The Recorder/Clerk shall keep a record of proceedings of the meetings of the governing body and any executive sessions of the governing body as prescribed by the Open and Public Meeting Laws of the State of Utah then in effect.

CHAPTER 2.12

MAYOR

2.12.010: CHIEF EXECUTIVE OFFICER: The Mayor shall be the Chief Executive Officer of Smithfield City to whom all employees of the City report.

2.12.020 PRESIDING OFFICER OF THE CITY: The Mayor is the chair and presides at all meetings of the Governing Body. In the event the Mayor is absent, unable or refuses to act, the Council may elect a member of the Council as Mayor Pro Tempore to preside over a meeting and perform during the Mayor's absence, disability, or refusal to act the duties and functions of Mayor.

2.12.030 VOTING RIGHTS AND PRIVILEGES: The Mayor is a non-voting member of the City Council except the Mayor shall vote:

A. On each matter for which there is a tie vote of the other Council members present at a Council meeting; or

B. When the Council is voting on whether to appoint or dismiss a municipal manager or on an ordinance that enlarges or restricts the Mayor's powers, duties, or functions.

2.12.040 DUTIES OF THE MAYOR: As the chief executive officer of the City, the Mayor shall have the following powers, responsibilities, and duties. The Mayor:

A. Shall keep the peace and enforce the laws of the municipality.

B. May remit fines and forfeitures and may release any person imprisoned for violation of any City ordinance.

- C. Shall report any such remittance or release to the City Council at its next regular session.
- D. Shall perform all duties prescribed by law, ordinance or resolution.
- E. Shall ensure that all laws, ordinances and resolutions are faithfully executed and observed.
- F. Shall report to the City Council the condition and needs of the City and may recommend for City Council consideration any measures as deemed to be in the best interest of the City.
- G. Shall, when necessary, call on the residents of the City over the age of twenty-one (21) years to assist in enforcing the laws of the state and the ordinances of the City.
- H. Shall exercise ceremonial functions for the City.
- I. May, at any reasonable time, inspect and examine the books, papers, records, or documents of the City, or of any officer, employee or agency of the City.
- J. Shall conduct annual performance evaluations of the City Manager, City Chief of Police and City Fire Chief, based upon the duties of each officer as provided in City, State or Federal law.

2.12.050 APPOINTMENTS OF THE MAYOR: Except as may be otherwise provided by law, the Mayor, by and with the advice and consent of the City Council, may assign or appoint a member of the City Council to administer one or more departments of the City, appoint a person to fill a City office or vacancy on a City commission or committee, and may assign or appoint all other officers and agents of the City as may be provided by law, and in the like manner, fill all vacancies occurring in the same. The Mayor may, within budget restraints, appoint one or more administrative assistants to the Mayor.

2.12.060 BUDGET OFFICER: The Mayor shall be the Budget Officer of the City, or he may appoint, with approval of the City Council, some other individual to exercise the function of the Budget Officer. The Budget Officer shall perform all duties which are prescribed by this code and by the Utah Uniform Municipal Fiscal Procedures Act For Utah Cities, Section 10-6-101 through 10-6-159 of the Utah Code Annotated 1953, as amended.

2.12.070 VETO: The Mayor may not veto an ordinance, a levy, or appropriation passed by the City Council.

CHAPTER 2.16

CITY OFFICERS GENERALLY

2.16.010 APPOINTED OFFICERS: The City Council may create any office deemed necessary to ensure the efficient operation of the government of the City and shall prescribe the powers and duties to be performed by appointed and other officials, including, but not limited to, the City Manager, the City Recorder, the City Treasurer, the City Attorney, the City Engineer, the City Police Chief, the City Fire Chief, the City Justice Court Judge and Department Heads. Duties of appointed offices shall be detailed in this Title, other City law and/or in the Personnel Manual, as determined by the City Council and required by law.

2.16.020 APPOINTMENT AND VACANCIES: The Mayor, as provided in Section 2.12.050 of this Title and with the advice and consent of the City Council, may appoint and fill vacancies in all offices provided for by law or ordinance, except for the office of City Manager, who shall be appointed as provided in Section 2.16.90. Unless sooner removed by the Mayor, with the advice and consent of the City Council, or as otherwise provided by law, all appointed officers shall continue in office until their successors are appointed and qualified. Unless otherwise provided by law, appointed officers shall serve at the pleasure of the City Council and may be removed with or without cause by a majority vote of the City Council, in accordance with Sections 10-3-1105 and 1106, Utah Code Annotated, 1953 as amended.

2.16.030 OATH OF OFFICE:

A. Required. Before entering on their respective duties, all officers of the City shall take the constitutional oath of office as set forth in Article IV, Section 10 of the Utah Constitution.

B. Administered. The oath of office shall be administered by the City Recorder, any Judge, including a Justice Court Judge, or notary public.

C. Filed. All oaths of office shall be filed with the City Recorder.

D. Failure to Comply. No official act of any officer shall be invalid for the reason that he or she failed to take the oath of office.

2.16.040 BONDS REQUIRED OF CERTAIN OFFICIALS; AMOUNT:

A. Before taking the oath of office and entering on the duties of their respective office, the following municipal officials shall each be bonded with good and sufficient securities, payable to Smithfield City for faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinances of Smithfield City in the following amounts:

<u>Office</u>	<u>Amount of Bond</u>
Mayor	\$ 1,000.00

Council Member	500.00
City Manager	10,000.00
Treasurer	5,000.00
Recorder/Clerk	500.00
Chief of Police	500.00
Justice Court Judge	500.00
Golf Professional	2,000.00

B. The treasurer's bond shall be superseded by any rule, regulation or directive of the State Money Management Council when such rule, regulation or directive is binding on this municipality.

C. The premium charged by any corporate surety for any bond required in this section shall be paid by this municipality.

D. The bond required in this section may be a blanket bond.

2.16.050 SALARIES:

A. The salary of the officers of this municipality shall be paid in the amount and at such time as is set by ordinance.

B. In addition to the salary paid the officers and employees of this municipality, they shall receive the following benefits:

1. Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the governing body may from time to time establish by resolution;

2. Vacation and sick leave on such basis as the governing body may from time to time establish by resolution;

3. Participation in the Utah State Retirement Program on such basis and cost as the governing body may from time to time by resolution establish.

2.16.060 COMPENSATION LIMITED FOR SEVERAL POSITIONS:

Whenever any person serves in two (2) or more positions either as officers or employees of this municipality, unless otherwise specifically provided in the employment agreement, by ordinance or resolution, the person shall receive the salary or compensation of the office or employment paying the greater amount.

2.16.070 TRANSFER OF RECORDS: Every officer of the City, upon expiration of his or her term of office or employment, for any cause whatsoever, shall deliver to his or her successor all books and records which may be the property of the City immediately after notification and/or request to do so, and in any event, not later than

five (5) calendar days after the said expiration of his or her term of office or employment.

2.16.080 CONFLICTS OF INTEREST: All appointed officers of the City shall disclose conflicts of interest and otherwise adhere to provisions of the Utah Officers' and Employees' Ethics Act, set forth at Utah Code Ann. 10-3-1301, et seq., as amended, hereby adopted by reference as if fully set forth herein.

2.16.090 CITY MANAGER:

A. Position Created. There is created the position of City Manager, who shall be known as the Smithfield City Manager.

B. Appointment and Dismissal. Subject to the provisions of Section 10-3b-302(1)(b)(ii)(A), Utah Code Annotated 1953, as amended, providing for the Mayor to vote as a voting member of the City Council, the City Council shall appoint and dismiss the City Manager in accordance with Section 10-3b-303, Utah Code Annotated, 1953, as amended.

C. Office. The City Manager shall maintain an office in City Hall and shall spend such time in the performance of his or her duties as is necessary or as may be required from time to time by the City Council, but not less than forty (40) hours per week.

D. Resignation. Before voluntarily resigning from the position of City Manager, the City Manager shall give the City Council at least thirty (30) days notice in writing of his or her intent to resign.

E. Other Employment. The City Manager shall not accept any outside employment in addition to employment by the City without prior annual written approval of the City Council.

F. Duties. The City Manager shall at all times be under the control and supervision of the Mayor, and shall administer the day-to-day operations of the City and its services according to the policies and programs established by the City Council. The following duties and the authority to perform them are hereby delegated to the City Manager.

1. Appoint and Remove Employees. The City Manager shall, under the direction of the Mayor, have the authority to appoint, employ and remove employees as provided herein. The City Manager shall also be responsible for reviewing the status and performance of any personnel being considered for promotion in and discharge, transfer, or demotion from appointment or employment with the City. The City Manager shall also perform annual performance evaluations of all appointed officials and employees, except for the City Chief of Police and City Fire Chief, which shall be performed by the Mayor.

2. Supervise Department Heads. The City Manager shall provide direct supervision of and have direct responsibility over the offices of City Recorder, City

Treasurer, and other department heads.

3. Personnel Director. The City Manager shall be the personnel director, and as such shall be responsible for implementing and enforcing the personnel policies and procedures of the City.

4. Property Care. The City Manager shall be responsible for the care and custody of all City property, including equipment, buildings, parks and all other City property which is not by law assigned to some other officer or body for care and control.

5. Purchasing and Claims. The City Manager shall act as purchasing agent for the City, and as such shall implement and enforce all provisions of the ordinances of the City relating to purchasing.

6. Assistance with City Budget. The City Manager shall assist the Mayor, as directed, to ensure conformance with the Utah Uniform Municipal Fiscal Procedures Act, which may include the preparation of the annual City budget and responsibility for the administration of the budget upon adoption. The City Manager may be appointed as the City Budget Officer by the Mayor as provided in Section 2.12.060. The City Manager shall also ensure that all executive procedures and activities of the City are in compliance with the Utah Uniform Municipal Fiscal Procedures Act.

7. Review Contracts. The City Manager shall review and make recommendations to the Mayor and City Council concerning all proposed contracts to which the City may be a party, and shall see that the terms of any contract to which the City is a party are fully performed by all parties thereto.

8. Propose Plans and Programs. The City Manager shall propose plans and programs concerning the development, operation and needs of the City and submit such plans to the Mayor and City Council for consideration.

9. Implement Policy. The City Manager shall implement all policy changes and directives of the Mayor and the City Council through regularly scheduled staff meetings.

10. Management Controls. The City Manager shall set performance standards and exercise managerial control to ensure that the City government is functioning in the most efficient and effective manner.

11. Organization. The City Manager shall recommend creation and organization of all necessary departments, divisions, bureaus and offices necessary for the government of the City to the Mayor and the City Council for consideration and implementation.

12. Meetings of the City Council. The City Manager shall attend all City Council Meetings and such other meetings as are designated by the Mayor and/or City Council.

13. Additional Duties. The City Manager shall have such other powers and shall perform such other duties and obligations as may be required of him or her by State law or by ordinance, resolution, or policy of the City Council.

2.16.100 CITY RECORDER:

A. Appointment. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder.

B. Office. The City Recorder shall occupy an office in the City offices or at some other place convenient thereto as the City Council may direct.

C. City Auditor. The City may engage the services of an independent auditor to perform audit services for the city from time to time, however, if no such independent auditor is engaged, the City Recorder shall be Ex Officio City Auditor, and shall perform the duties of such office.

D. Corporate Seal. The City Recorder shall keep the corporate seal. When certified by the City Recorder under the corporate seal, copies of all papers filed in the City Recorder's office and transcripts from all records of the City Council shall be admissible in all courts as originals.

E. Meetings of City Council. The City Recorder, or his or her designee, shall attend meetings and keep the record of the proceedings of the City Council.

F. Actions of City Council. The City Recorder shall record all ordinances, resolutions, and regulations passed by the City Council.

G. Contracts. The City Recorder shall countersign all contracts made on behalf of the City or to which the City is a party and shall maintain a properly indexed record of all such contracts.

H. Accounting. The City Recorder shall maintain the general books for each fund of the City and shall keep accounts with all receiving and disbursing officers of the City including all subsidiary records relating thereto.

I. Bonds. The City Recorder shall maintain a list of all outstanding bonds of the City, including their purpose, amount, terms, date and place payable.

J. Claims. The City Recorder shall pre-audit all claims and demands against the City before they are allowed.

K. Payments. The City Recorder shall prepare and certify the necessary checks in payment pursuant to Utah Code. Ann. § 10-6-139, as amended.

L. Elections and Appointments. The City Recorder shall manage all municipal election procedures and requirements as provided in the Utah Code Annotated, as amended, and shall keep a record of all persons elected or appointed to any office within the City, including the date of appointment or election, term of office, date of death, resignation, or removal, and name of person appointed to fill any vacancy.

M. Records of the City. The City Recorder shall keep all of the books, records, accounts and documents of the City at the recorder's office. Such records shall be open for public inspection pursuant to the provisions of the Utah Government Records Access and Management Act.

N. Limitations. The City Recorder shall not serve as the City Treasurer.

O. Additional Duties. The City Recorder shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

2.16.110 CITY TREASURER:

A. Appointment. On or before the first Monday in February following a municipal election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer.

B. Custodian. The City Treasurer shall be the custodian of all money, bonds, or other securities belonging to the City.

C. Collections. The City Treasurer shall collect and receive all monies payable to the City, including taxes, assessments, licenses, fines, forfeitures, service charges, fees and other revenues of the City. The City Treasurer shall keep an accurate account of all monies received hereunder and shall promptly deposit all such monies in the appropriate bank accounts of the City.

D. Receipts. The City Treasurer shall give or cause to be given to every person paying money to the City treasury, a receipt or other evidence of payment therefor, specifying the date of payment and the amount paid. The City Treasurer shall file the duplicate of such receipt, a summary report, or other evidence of payment in the office of the City Recorder.

E. Checks. The City Treasurer, or other designated person, shall sign all checks prepared by the City Recorder and shall, prior to affixing said signature, determine or cause to be determined that sufficient funds are on deposit in the appropriate bank account of the City to honor such check.

F. Warrants. The City Treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the City. The City Treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment.

G. Special Assessments. All monies received by the City Treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made.

H. Accounting. The City Treasurer shall keep an accurate and detailed accounting of all transactions, receipts, collections, disbursements and other matters within the treasurer's charge as provided by state law or as the City may by ordinance or resolution direct.

I. Limitations. The City Treasurer shall not serve as the City Recorder.

J. Additional Duties. The City Treasurer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

2.16.120 CITY ATTORNEY:

A. Appointment. The City Council may contract with, retain, or appoint an attorney licensed to practice law in the State of Utah to the office of City Attorney to provide such legal assistance to the City as may be necessary. The City Attorney shall act as legal advisor to the City in all matters pertaining to contracts with or by the City or questions of legality arising out of any law, ordinance or otherwise, and shall advise all City officers in relation to their official duties.

B. Criminal Prosecutor. The City may make a separate contract with an attorney or attorneys for the performance of criminal prosecutorial legal services.

2.16.130 CITY ENGINEER:

A. Appointment. The City Council may contract with, retain or appoint an engineer licensed to practice engineering in the State of Utah to the office of City Engineer. Any person appointed or retained as City Engineer shall be a registered professional engineer under Title 58, Chapter 22 of the Utah Code Annotated, as amended and with sufficient experience to perform municipal engineering duties.

B. Records. The City and/or the City Engineer shall maintain all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the City and the holder of such records shall ensure public accessibility to the same as required by law.

C. Recording. The City Engineer shall record and file all drawings and documents pertaining to public lands and improvements of the City, and shall maintain such records and files in good condition allowing no alternation, mutilation or changes to be made. The recording or filing of any drawing or instrument with the City shall not conflict in any way with the recording or filing of the same in other offices of record.

D. Fees. The City Engineer shall not record any drawings or instruments, file any papers or notices, furnish any copies, or render any service connected with his or her official duties, until the required fees for the same are paid or tendered.

E. Seal. The City Engineer shall have a seal for his or her use, which seal shall be affixed to every certification approval as allowed by law.

F. Additional Duties. The City Engineer shall perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

2.16.140 CITY CHIEF OF POLICE:

A. Appointment. The Mayor shall, with the advice and consent of the City Council, appoint a qualified person to the office of City Chief of Police.

B. Supervised by Mayor. The Chief of Police shall be under the direction, control and supervision of the Mayor, or as delegated by the Mayor to the City Manager, and shall exercise and perform such duties as may be prescribed by the City Council.

C. Duties. The duties of the Chief of Police shall be as outlined in Sections 2.28.020 and 2.28.030 of this code.

D. Additional Duties. Perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

2.16.150 CITY FIRE CHIEF:

A. Appointment. The Mayor shall, with the advice and consent of the City Council, appoint a qualified person to the office of Chief of the Fire Department to be known as the Fire Chief of Smithfield City.

B. Supervised by Mayor. The Fire Chief shall be under the direction, control and supervision of the Mayor, or as delegated by the Mayor to the City Manager, and shall exercise and perform such duties as may be prescribed by the City Council.

C. Duties. The duties of the Fire Chief shall be as outlined in Section 2.32.030 of this Code.

D. Additional Duties. Perform such other and further duties as the City Council may provide by ordinance, resolution, regulation or directive.

2.16.160 JUSTICE COURT JUDGE: The office of City Justice Court Judge is hereby created and the person appointed to this office shall act as the Justice Court Judge of the Smithfield City Justice Court. The Justice Court Judge shall be appointed and shall have such powers and duties as set forth in the Utah Code Annotated, as amended.