



Hildale City Special Council Meeting

Monday, October 04, 2021 at 1:00 PM

320 East Newel Avenue, Hildale City, Utah 84784

Agenda

Notice is hereby given to the members of the Hildale City Council and the public, that the City Council will hold a public meeting on **Monday, October 4, 2021 at 1:00 p.m. (MDT)**, at 320 East Newel Avenue, Hildale City, Utah 84784.

Councilmembers may be participating electronically by video or telephone conference. The meeting will be broadcast to the public on Facebook Live under Hildale's City page. Members of the public may also watch the City of Hildale through the scheduled Zoom meeting.

<https://www.facebook.com/hildalecity/live/>

Join Zoom Meeting

<https://zoom.us/j/95770171318?pwd=aUVSU0hRSFFHcGQvcUIPT3ZYK0p5UT09>

Meeting ID: 957 7017 1318

Passcode: 993804

One tap mobile

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Comments during the public comment or public hearing portions of the meeting may be emailed to manager@hildalecity.com or privately messaged to Hildale City's Facebook page. All comments sent before the meeting may be read during the meeting and messages or emails sent during the meeting may be read at the Mayor's discretion.

Roll Call of Council Attendees: City Recorder Cawley

Welcome, Introduction and Preliminary Matters: Mayor Jessop

Pledge of Allegiance: By Invitation

Conflict of Interest Disclosures: Mayor and Council Members

Special Recognitions: NONE

Public Presentations: NONE

Approval of Minutes of Previous Meetings: NONE

Public Comments: NONE

Council Comments: NONE

Oversight Items: NONE

Public Hearing: NONE

Appointments to Boards or Commissions: NONE

Unfinished Council Business: NONE

New Council Business:

1. Consideration, discussion and possible direction to staff concerning Section 10-3-301 of the Utah Code, Councilmember Place of Residence.

Calendar of Upcoming Events: NONE

Executive Session: As needed

Scheduling: As needed

Adjournment: Presiding Officer

Agenda items and any variables thereto are set for consideration, discussion, approval, or other action. Council Members may be attending by telephone. Agenda is subject to change up to 24 hours prior to the meeting. Individuals needing special accommodations should notify the City Recorder at 435-874-2323 at least three days prior to the meeting.

Effective 7/1/2021**10-3-301 Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.**

- (1) As used in this section:
- (a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.
 - (b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.
 - (c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.
- (2)
- (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:
 - (i) the municipal offices to be voted on in the municipal general election; and
 - (ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2) (a)(i).
 - (b) The municipal clerk shall publish the notice described in Subsection (2)(a):
 - (i) on the Utah Public Notice Website established by Section 63A-16-601; and
 - (ii) in at least one of the following ways:
 - (A) at the principal office of the municipality;
 - (B) in a newsletter produced by the municipality;
 - (C) on a website operated by the municipality; or
 - (D) with a utility enterprise fund customer's bill.
- (3)
- (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:
 - (A) Saturday or Sunday; or
 - (B) state holiday as listed in Section 63G-1-301.
 - (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:
 - (A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and
 - (B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).
- (4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.
- (5)
- (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.
 - (b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

- (i) establishes a principal place of residence outside the district that the elected officer represents;
 - (ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;
 - (iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or
 - (iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.
- (6)
- (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:
 - (i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or
 - (ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.
 - (b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:
 - (i) whether the legislative body should give the consent; and
 - (ii) the length of time to which the legislative body should consent.
- (7)
- (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.
 - (b) The recorder of a municipality may not also serve as the municipal treasurer.
 - (c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.
 - (d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session
Amended by Chapter 355, 2021 General Session

Effective 5/5/2021**20A-2-105 Determining residency.**

- (1) As used in this section:
 - (a) "Principal place of residence" means the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.
 - (b) "Resident" means a person whose principal place of residence is within a specific voting precinct in Utah.
- (2) Election officials and judges shall apply the standards and requirements of this section when determining whether a person is a resident for purposes of interpreting this title or the Utah Constitution.
- (3)
 - (a) A person resides in Utah if:
 - (i) the person's principal place of residence is within Utah; and
 - (ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.
 - (b) A person resides within a particular voting precinct if, as of the date of registering to vote, the person's principal place of residence is in that voting precinct.
 - (c) A person's principal place of residence does not change solely because the person is present in Utah, present in a voting precinct, absent from Utah, or absent from the person's voting precinct because the person is:
 - (i) employed in the service of the United States or of Utah;
 - (ii) a student at an institution of learning;
 - (iii) incarcerated in prison or jail; or
 - (iv) residing upon an Indian or military reservation.
 - (d)
 - (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.
 - (ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection (3)(d) shall meet the other requirements of this section.
 - (e)
 - (i) Except as provided in Subsection (3)(e)(ii) or (iii), a person has not lost the person's principal place of residence in Utah or a precinct if that person moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.
 - (ii) If a person leaves the state or a voting precinct and votes in another state or voting precinct, the person is no longer a resident of the state or voting precinct that the person left.
 - (iii) A person loses the person's principal place of residence in Utah or in a precinct, if, after the person moves to another state or another precinct under Subsection (3)(e)(i), the person forms the intent of making the other state or precinct the person's principal place of residence.
 - (f) A person is not a resident of a county or voting precinct if that person comes for temporary purposes and does not intend to make that county or voting precinct the person's principal place of residence.
 - (g) A person loses the person's principal place of residence in Utah or in a precinct if the person moves to another state or precinct with the intention of making the other state or precinct the person's principal place of residence.
 - (h) If a person moves to another state or precinct with the intent of remaining there for an indefinite time as the person's principal place of residence, the person loses the person's

residence in Utah, or in the precinct, even though the person intends to return at some future time.

- (4) An election official or judge shall, in determining a person's principal place of residence, consider the following factors, to the extent that the election official or judge determines the factors to be relevant:
 - (a) where the person's family resides;
 - (b) whether the person is single, married, separated, or divorced;
 - (c) the age of the person;
 - (d) where the person usually sleeps;
 - (e) where the person's minor children attend school;
 - (f) the location of the person's employment, income sources, or business pursuits;
 - (g) the location of real property owned by the person;
 - (h) the person's residence for purposes of taxation or tax exemption; and
 - (i) other relevant factors.
- (5)
 - (a) A person has changed the person's principal place of residence if the person:
 - (i) acts affirmatively to move from the state or a precinct in the state; and
 - (ii) has the intent to remain in another state or precinct.
 - (b) A person may not have more than one principal place of residence.
 - (c) A person does not lose the person's principal place of residence until the person establishes another principal place of residence.
- (6) In computing the period that a person is a resident, a person shall:
 - (a) include the day on which the person establishes the person's principal place of residence; and
 - (b) exclude the day of the next election.
- (7)
 - (a) Except as provided in Subsection (10), there is a rebuttable presumption that a person's principal place of residence is in Utah and in the voting precinct claimed by the person if the person makes an oath or affirmation upon a registration application form or declaration of candidacy that the person's principal place of residence is in Utah and in the voting precinct claimed by the person.
 - (b) Except as provided in Subsection (10), the election officers and election officials shall allow a person described in Subsection (7)(a) to register and vote, or accept the person's declaration of candidacy, unless, upon a challenge by a registrar or some other person, it is shown by law or by clear and convincing evidence that:
 - (i) the person's principal place of residence is not in Utah; or
 - (ii) the person is incarcerated in prison or jail and did not, before the person was incarcerated in prison or jail, establish the person's principal place of residence in the voting precinct.
- (8)
 - (a) The criteria described in this section for establishing a person's principal place of residence for voting purposes do not apply in relation to the person's location while the person is incarcerated in prison or jail.
 - (b) For voting registration purposes, the principal place of residence of a person incarcerated in prison or jail is the state and voting precinct where the person's principal place of residence was located before incarceration.
- (9) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.
- (10)

- (a) If an individual seeking to become a candidate for a political office that includes a duration of residency requirement has been absent from the state for a period of more than 180 consecutive days during the applicable residency period, the individual may, at the time that the candidate files a declaration of candidacy, submit evidence to the filing officer to show that the individual intended to return to the state during the time of the individual's absence from the state.
- (b) There is a rebuttable presumption that an individual described in Subsection (10)(a) intended to return to the state during the individual's absence if:
 - (i) the individual submits evidence of the individual's intent to the filing officer at the time that the individual files a declaration of candidacy; or
 - (ii) the individual was absent from the state because the individual was:
 - (A) employed in the service of the United States or of Utah;
 - (B) a student at an institution of learning; or
 - (C) engaged solely in religious, missionary, philanthropic, or humanitarian activities.
- (c) If a valid written objection to an individual's declaration of candidacy is filed, there is a rebuttable presumption that an individual described in Subsection (10)(a) did not intend to return to the state during the individual's absence if:
 - (i) the individual did not submit evidence of the individual's intent to the filing officer at the time that the individual filed a declaration of candidacy; and
 - (ii) the individual's absence from the state was not for one of the reasons described in Subsection (10)(b)(ii).
- (d) An individual must rebut the presumption described in this Subsection (10) by clear and convincing evidence.

Amended by Chapter 183, 2021 General Session