

SALT LAKE COUNTY ORDINANCE
CONSTABLE TERMS AND APPOINTMENT PROCESS

ORDINANCE NO. _____, 2018

COUNTY CONSTABLES

AN ORDINANCE AMENDING CHAPTER 2.50, SALT LAKE COUNTY CODE OF ORDINANCES, 2001, ENTITLED "COUNTY CONSTABLES," TO MAKE THE ORDINANCE CONSISTENT WITH STATE STATUTE REGARDING THE TERM OF OFFICE FOR APPOINTED CONSTABLES AND THE COMPOSITION OF THE NOMINATING COMMISSION, AND MAKING OTHER RELATED CHANGES.

The Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineation.

SECTION II. Chapter 2.50 of the Salt Lake County Code of Ordinances, 2001, is amended to read as follows:

Sections:

2.50.010 - Establishment—Number of constables.

2.50.020 - Administrative policies and procedures.

2.50.030 - Jurisdiction.

2.50.040 - Independent contractors

2.50.050 - Notice of constable position.

2.50.060 - Nominating commission.

2.50.070 - Nominating process.

2.50.080 - Appointment—Term of office.

2.50.090 - Appointment of deputy constables.

2.50.100 - Reporting.

2.50.110 - Access to criminal history information.

2.50.120 - Annual fee.

2.50.130 - Removal.

2.50.010 - Establishment—Number of constables.

The council shall appoint as many qualified persons to act as county constables as convenience requires, subject to the provisions of [~~Section 17-25a-1, et seq., Utah Code Annotated, 1953, as amended~~] state law.

2.50.020 - Administrative policies and procedures.

- A. Each county constable shall be responsible for supervising such constable's own deputies, office personnel and administrative matters, and for ensuring compliance with the association's administrative policies and procedures and ensuring that each constable and deputy constable who uses an automobile in the discharge of the duties of his or her office shall possess a current Utah driver's license and will maintain automobile liability insurance as required by law and will file copies of such policies with county risk management.
- B. Each county constable will furnish a policy of general liability insurance written by a carrier on a form acceptable to the risk manager and in an amount set by the council covering each constable and deputy constable and naming Salt Lake County as an additional insured and shall furnish a copy of the certificate of insurance to the constable liaison and risk manager. No person shall exercise any of the powers of a constable or discharge any of the duties of a constable in the absence of such insurance. Anyone violating this requirement is guilty of a

class B misdemeanor and in addition to any other penalty imposed by law is subject to removal from office.

2.50.030 - Jurisdiction.

County constables shall be appointed on a county-wide basis and may serve civil and criminal process pursuant to [~~Section 17-25a-1, et seq., Utah Code Annotated, 1953 (amended in 1990)~~] state law.

2.50.040 - Independent contractors.

County constables are independent contractors and are responsible for their own actions and for the actions of their deputies, agents and employees, and any liability resulting therefrom. When executing civil process, constables are acting as agents of the litigant or litigant's attorney who employs their services. Constables, as officers of the court, are also acting in their official capacity as special function officers empowered by law to enforce the lawful orders of any court of competent jurisdiction.

2.50.050 - Notice of constable position.

When the council determines that one or more constables should be appointed, it shall advertise the position(s) by publishing a notice thereof at least twice in a newspaper of general circulation in the county. The notice of an open constable position 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. Personnel policies and procedures regarding recruitment of applicants will apply to filling this position.

2.50.060 - Nominating commission.

When a county constable position is to be opened, the council shall establish a constable nominating commission. The nominating commission shall consist of the following individuals or their designees:

1. A council member;
2. The sheriff;
3. A judge of the justice or district court;
4. The attorney; and
5. A private citizen of Salt Lake County appointed by the council.

2.50.070 - Nominating process.

- A. Upon being appointed, designated or informed of the request of the council that the nominating commission is to be convened, the members so designated will meet within ten days' time and develop the criteria for the selection and ranking of applicants for the position. Applicants must meet the eligibility criteria established by [~~Section 17-25a-2, Utah Code Annotated, 1953, as amended,~~] state law for the position of county constable.
- B. The nominating commission shall rank the applicants in order of preference and submit up to three names for each vacancy together with other recommendations to the council.

2.50.080 - Appointment—Term of office.

- A. The council, upon receipt of the nominating commission's list of successful applicants ranked in order of preference, together with its recommendations and within fifteen calendar days thereafter, shall:

1. Approve the nominating commission's recommendations and appoint the recommended applicant(s);
2. Reject the recommended applicant(s) and select one or more of the remaining applicants on the list; or
3. Reject all the named applicants and refer the matter back to the nominating commission for a new list and recommendation.

B. A constable's term of office is [~~six~~] four years. A constable may serve more than one term if reappointed by the council.

2.50.090 - Appointment of deputy constables.

Deputy constables shall be appointed in accordance with the provisions of Section 2.12.070 of this code of ordinances. Each nominee must be certified by the division of peace officer standards and training as qualified to undertake the duties of a special function officer and by the appointing constable as having successfully passed a criminal background check. The council will not act upon any nomination until it has received a background report prepared in accordance with peace officer standards and training and sheriff's office background investigation standards and an application fee of twenty-five dollars deposited to the Salt Lake County general fund.

- A. The criminal background check may be waived if the applicant is currently employed as a peace officer as defined by [~~Utah Code Ann., § 53-1-102~~] state law. The applicant must submit a current letter from the employing law enforcement agency stating that the individual is [~~POST~~] certified as a special function peace officer, is an employee in good standing, and that there is nothing in the applicant's previous experience or

background with the law enforcement agency to preclude the applicant from being a deputy constable.

- B. The criminal background check may be waived if the applicant is retiring or has retired from a law enforcement agency in good standing. The applicant must submit a letter from the law enforcement agency, dated no earlier than one year prior to the date of the application, stating the date of the individual's retirement, that the individual has been [POST] certified as a special function peace officer and remains [POST] certified as of the date of retirement, is leaving or has left its employ in good standing and that there is nothing in the applicant's previous experience or background with the law enforcement agency to preclude the applicant from being a deputy constable. The individual seeking waiver of the background check must seek employment within one year of retirement from the law enforcement agency.

2.50.100 - Reporting.

After a county constable or deputy constable has been appointed or removed by the council, the constable's name shall be reported to the Division of Peace Officer Standards and Training by the council clerk.

2.50.110 - Access to criminal history information.

- A. The sheriff is authorized to enter into user agreements with any constable who is required to serve criminal process for access to sheriff's office criminal history information the sheriff deems appropriate. Upon entering into user's agreement, the constable shall be responsible for ensuring the confidentiality requirements of the agreement are complied with.

- B. Constables may enter into user agreements with the Utah State Department of Public Safety for access to state and national criminal history information systems.

2.50.120 - Annual fee.

All persons acting as a county constable or deputy county constable shall pay an annual fee of one hundred dollars to the county general fund. The fee is due on January 1st of each year and delinquent on January 31st. Any person who acts as a county constable or deputy county constable without first having paid the fee is guilty of a Class B misdemeanor and in addition to any other penalty imposed by law is subject to removal from office.

2.50.130 - Removal.

- A. County constables or deputy constables shall be subject to removal by the council after a recommendation for removal has been made by an administrative tribunal convened by the council to adjudicate the matter.
- B. Upon being appointed, designated or informed to convene an administrative tribunal, the members so designated shall first adopt a set of rules [~~se~~-as] to afford the constable due process.
- C. Loss of certification by the division of peace officer standards and training, the conviction of any felony, acting as a county constable or deputy county constable without first having paid the annual fee, or conviction of an offense involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale, or possession for sale of a controlled substance (as defined by division of peace officer standards and training administrative rule) shall constitute an automatic disqualification from office.

- D. A county constable may be removed from office if it is established that the constable has [~~wilfully~~] willfully failed to comply with the written administrative policies and procedures approved by the council or the Utah Public Officers' and Employees' Ethics Act[, ~~Section 67-16-1, et seq., Utah Code Annotated, 1953~~].
- E. A constable shall be removed from office and shall have all statutory authority withdrawn if he or she is absent from the county for a period of sixty days or more without the written permission of the county legislative body or if the constable ceases to exercise constable authority or act as a constable.
- F. The foregoing is not to be construed as a limitation on the enforcement powers of the sheriff and attorney and the attorney may bring judicial proceedings to remove any constable or deputy constable without the necessity of an administrative tribunal as provided in Section 2.50.130(A).
- G. If for any reason the county withdraws the authority of a county constable, the authority of all deputy constables is also withdrawn.

SECTION III. This ordinance shall become effective fifteen days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this _____ day of _____, 2018.

SALT LAKE COUNTY COUNCIL

By _____
Aimee Winder Newton, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:

Pavini Anderson

Deputy District Attorney

Date: 25 MAY 2018

Voting:

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

Vetoed this _____ day of _____, 2018.

By _____
Mayor Ben McAdams

(Complete As Applicable)

Veto override: Yes__ No__ Date _____

Ordinance Published in newspaper: Date _____

Effective date of ordinance: _____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the _____ day of _____, 2018, the County Council of Salt Lake County adopted Ordinance No. _____, amending chapter 2.50, Salt Lake County Code of Ordinances, 2001, entitled "county constables," to make the ordinance consistent with state statute regarding the term of office for appointed constables and the composition of the nominating commission, and making other related changes.

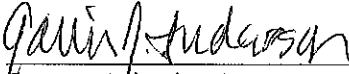
SALT LAKE COUNTY COUNCIL

By _____
Aimee Winder Newton, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:



Deputy District Attorney
Date: 25 MAY 2018

Voting:

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2-100A, Salt Lake City, Utah.