

**CHAPTER 3**  
**HOWELL TOWN GOVERNMENT**

**Table of Contents**

<b>SECTION 3-1.</b>	<b>HOWELL TOWN COUNCIL.....</b>	<b>2</b>
<b>SECTION 3-2.</b>	<b>REGULAR MEETINGS.....</b>	<b>2</b>
<b>SECTION 3-3.</b>	<b>SPECIAL MEETINGS. ....</b>	<b>2</b>
<b>SECTION 3-4.</b>	<b>ALL MEETINGS OPEN TO THE PUBLIC – EXCEPTION.....</b>	<b>2</b>
<b>SECTION 3-5.</b>	<b>CLOSED MEETING. ....</b>	<b>2</b>
<b>SECTION 3-6.</b>	<b>PURPOSE OF CLOSED MEETINGS – CHANCE MEETINGS AND SOCIAL MEETING EXCLUDED .....</b>	<b>3</b>
<b>SECTION 3-7.</b>	<b>QUORUM AND ATTENDANCE. ....</b>	<b>3</b>
<b>SECTION 3-8.</b>	<b>VOTING – HOW THE VOTE IS TAKEN. ....</b>	<b>3</b>
<b>SECTION 3-9.</b>	<b>MINIMUM VOTE REQUIRED. ....</b>	<b>3</b>
<b>SECTION 3-10.</b>	<b>RECONSIDERATION OF VOTE.....</b>	<b>4</b>
<b>SECTION 3-11.</b>	<b>PUBLIC RECORDS.....</b>	<b>4</b>
<b>SECTION 3-12.</b>	<b>RECORD PROCEEDINGS.....</b>	<b>5</b>
<b>SECTION 3-13.</b>	<b>RULES OF PROCEDURE. ....</b>	<b>5</b>
<b>SECTION 3-14.</b>	<b>RULES OF CONDUCT FOR MEMBERS OF THE TOWN COUNCIL.....</b>	<b>5</b>
<b>SECTION 3-15.</b>	<b>RULES OF CONDUCT FOR THE PUBLIC. ....</b>	<b>5</b>
<b>SECTION 3-16.</b>	<b>LEGISLATIVE POWER EXERCISED BY ORDINANCE. ....</b>	<b>5</b>
<b>SECTION 3-17.</b>	<b>EXTENT OF POWER EXERCISED BY ORDINANCE.....</b>	<b>5</b>
<b>SECTION 3-18.</b>	<b>PUBLICATION AND POSTING OF ORDINANCES. ....</b>	<b>5</b>
<b>SECTION 3-19.</b>	<b>EFFECTIVE DATE. ....</b>	<b>6</b>
<b>SECTION 3-20.</b>	<b>PURPOSE OF RESOLUTIONS. ....</b>	<b>6</b>
<b>SECTION 3-21.</b>	<b>RESOLUTIONS NEED NO POSTING; EFFECTIVE DATE. ....</b>	<b>6</b>
<b>SECTION 3-22.</b>	<b>POWERS OF THE MAYOR. ....</b>	<b>6</b>
<b>SECTION 3-23.</b>	<b>MAYOR AS A VOTING MEMBER OF THE TOWN COUNCIL.....</b>	<b>7</b>
<b>SECTION 3-24.</b>	<b>MAYOR AS PRESIDING OFFICER – MAYOR PRO TEMPORE ....</b>	<b>7</b>
<b>SECTION 3-25.</b>	<b>BONDS. ....</b>	<b>7</b>
<b>SECTION 3-26.</b>	<b>OATHS. ....</b>	<b>8</b>
<b>SECTION 3-27.</b>	<b>OATH – GIVEN – FILED. ....</b>	<b>8</b>
<b>SECTION 3-28.</b>	<b>FORM OF OATH.....</b>	<b>8</b>
<b>SECTION 3-29.</b>	<b>ACTS OF OFFICIALS NOT VOIDED.....</b>	<b>8</b>
<b>SECTION 3-30.</b>	<b>SALARIES. ....</b>	<b>8</b>
<b>SECTION 3-31.</b>	<b>COMPENSATION FOR SEVERAL POSITIONS. ....</b>	<b>9</b>
<b>SECTION 3-32.</b>	<b>COMPENSATION FOR USE OF PERSONALVECHILE ON TOWN BUSINESS.....</b>	<b>9</b>
<b>SECTION 3-33.</b>	<b>COMPENSATION FOR USE OF TRUCKS, TRACTORS, AND OTHER EQUIPEMENT .....</b>	<b>9</b>
<b>SECTION 3-34.</b>	<b>APPOINTMENT OF OFFICERS AND AGENTS.....</b>	<b>9</b>
<b>SECTION 3-35.</b>	<b>SUPERVISION.....</b>	<b>10</b>
<b>SECTION 3-36.</b>	<b>DUTES.....</b>	<b>10</b>
<b>SECTION 3-37</b>	<b>NEPOTISM.....</b>	<b>10</b>

## **CHAPTER 3**

### **HOWELL TOWN GOVERNMENT**

#### **SECTION 3-1. HOWELL TOWN COUNCIL.**

- A. Shall be a council of five persons one of whom shall be the mayor and the remaining four shall be councilmen.
- B. Shall exercise the legislative and executive powers of the town.
- C. Shall perform such other functions as may be specifically provided or necessarily implied by law.

#### **SECTION 3-2. REGULAR MEETINGS.**

The Howell Town Council shall hold one (1) regular meeting which shall be held on the 2<sup>nd</sup> Tuesday of each month at the Community Center, which meeting shall begin at 7:00 p.m. provided that if the meeting date is a legal holiday, then the meeting shall be held at the same time and place on the next day which is not a legal holiday; provided that the council may by resolution provide for a different time and place for holding the regular meetings of the town council. (Amended 11-09-10 -2010-03)

#### **SECTION 3-3. SPECIAL MEETINGS.**

If at any time the business of the town requires a special meeting of the council, such meeting may be ordered by the mayor or any two councilmen. The order shall be entered in the minutes of the council. The order shall provide at least three hours notice of the special meeting and notice thereof shall be served by the clerk on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member at any specially called meeting constitutes a waiver of the notice required in this section.

#### **SECTION 3-4. ALL MEETINGS OPEN TO THE PUBLIC – EXCEPTION.**

All meetings of the town council shall be held open to the public except closed meetings.

#### **SECTION 3-5. CLOSED MEETING.**

A closed meeting may be held upon the affirmative vote of two-thirds of the members of the town council present at an open meeting for which notice is given. No closed meeting is allowed except as to matters exempted under Section 3-6; provided no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. The reason or reasons for holding a closed meeting and the vote, either for

or against the proposition to hold such a meeting, cast by each member by name shall be entered on the minutes of the meeting.

Nothing in this section shall be construed to require any meeting to be closed to the public.

**SECTION 3-6. PURPOSE OF CLOSED MEETINGS – CHANCE MEETINGS AND SOCIAL MEETING EXCLUDED**

- A. A closed meeting may be held pursuant to Section 3-5 for any of the following purposes:
  - (1) Discussion of the character, professional competence, or physical or mental health of an individual;
  - (2) Strategy session with respect to collective bargaining; litigation; or purchase of real property.
- B. This part shall not apply to any chance meeting or a social meeting. No chance meeting or social meeting shall be used to circumvent this section.

**SECTION 3-7. QUORUM AND ATTENDANCE.**

- A. The number of members of the council necessary to constitute a quorum is three or more.
- B. No action of the council shall be official or of any effect except when a quorum of the members are present. Fewer than a quorum may adjourn from time to time.
- C. The council shall have the power to compel the attendance of its own members and provide such penalties as it deems necessary for the failure to comply therewith.

**SECTION 3-8. VOTING – HOW THE VOTE IS TAKEN.**

A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the town and in any other case at the request of any member of the council by a “yes” or “no” vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

**SECTION 3-9. MINIMUM VOTE REQUIRED.**

- A. The minimum number of “yes” votes required to pass any ordinance, resolution or to take any action by the council unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3).
- B. Any ordinance, resolution or motion of the council having fewer than favorable votes than required herein shall be deemed defeated and invalid, except a

meeting may be adjourned to a specific time by a majority vote of the council even though such majority is less than that required herein.

- C. A majority of the members of the council, regardless of number, may fill any vacancy in the council.

### **SECTION 3-10. RECONSIDERATION OF VOTE.**

Any action taken by the council shall not be reconsidered or rescinded at any special meeting unless the number of members of the council present at the special meeting is equal or greater than the number of members present at the meeting when the action was approved.

### **SECTION 3-11. PUBLIC RECORDS.** (Amended 07-01-14 Ord. 2014-01)

- A. **General:** All government records of the Town shall be maintained, classified and accessed in accordance with the Government Records Access and Management Act (GRAMA) as set forth in Utah Code.
- B. **Retention Schedule:** All government records of the Town shall be retained in accordance with the Utah Municipal General Records Retention Schedule (1998), as updated, which is hereby adopted by reference as the Howell Town Records Retention Schedule.
- C. **Records Requests:** Any person requesting a record shall file a written Government Records Access and Management Request Form as provided by the Town. Such requests shall be submitted and processed in accordance with the Government Records Access and Management Act.
- D. **Fees:** The Town may charge reasonable fees to cover the Town's actual cost of providing a record. Fees for providing a record shall be adopted and may be amended as part of the Town's Fee Schedule. When the Town compiles records in a form other than that normally maintained by the Town in response to a records request, the actual cost for compiling the record may include those costs set forth in Utah Code; provided, no charge may be made for the first quarter hour of staff time. The Town may require payment of past fees and future estimated fees before beginning to process a request if: (1) fees are expected to exceed fifty dollars (\$50.00); or (2) the requester has not paid fees from previous requests. Any prepaid amount in excess of fees due shall be returned to the requester.
- E. **Fee Waiver:** In accordance with Utah Code, the Town may fulfill a record request without charge 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 an individual specified in Subsections 63-2-202(1) or (2) of the Act; or
  3. the requester's legal rights are directly implicated by the information in the record and the requester is impecunious.

- F. **Appeals:** Any person aggrieved by the Town's access determination made or fees imposed may appeal the determination, or fee assessed, within thirty (30) days to the Mayor in accordance with the provision set forth in Utah Code.

**SECTION 3-12. RECORD PROCEEDINGS.**

The clerk shall keep a record of the proceedings of the meetings of the town council, except that minutes of closed meetings shall not be available to the public until such time as the council shall make them public or by an order of the court.

**SECTION 3-13. RULES OF PROCEDURE.**

Except as otherwise provided by law the town council may establish its own rules of procedures for the proper conduct of its meetings.

**SECTION 3-14. RULES OF CONDUCT FOR MEMBERS OF THE TOWN COUNCIL**

The council may fine or expel any member for disorderly conduct on two-thirds vote of the members of the council.

**SECTION 3-15. RULES OF CONDUCT FOR THE PUBLIC.**

The town council on a two-thirds vote may expel any person who is disorderly during the meeting of the council. This section or any action by the council pursuant hereto, shall not preclude prosecution under any provision of law.

**SECTION 3-16. LEGISLATIVE POWER EXERCISED BY ORDINANCE.**

Except as otherwise specifically provided, the town council shall exercise its legislative powers through ordinances.

**SECTION 3-17. EXTENT OF POWER EXERCISED BY ORDINANCE.**

The town council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by law. An officer of the Howell Town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

**SECTION 3-18. PUBLICATION AND POSTING OF ORDINANCES.** (Amended 07-01-14 Ord. 2014-05)

- A. All ordinances except those enacted pursuant to Sections 10-3-706 to 10-3-710, Utah Code, 1984, before taking effect shall be deposited in the office of the town clerk and a short summary of the ordinance published at least once in a newspaper

published within the town, or if there is no newspaper published within, then by posting complete copies in three public places within the town *as follows: (1) United States Post Office – Howell Town – 15960 N 17400 W, (2) Howell Town Community Center outside bulletin board – 15970 W 17400 W, and (3) Howell Town Community Center inside bulletin board – 15970 N 17400 W.*

- B. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the clerk or the town prior to the adoption of the ordinance by the town council.
- C. Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. The ordinance adopting the code or book shall be published or posted in the manner provided in this section.

**SECTION 3-19. EFFECTIVE DATE.**

Ordinances shall become effective 20 days after posting or 30 days after final passage by the town council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier date or later date after posting if so provided in the ordinance.

**SECTION 3-20. PURPOSE OF RESOLUTIONS.**

Unless otherwise required by law, the town council may exercise all administrative powers by resolution including, but not limited to: (1) Establishing water rates; (2) Fees charged for town services; (3) Regulating the use and operation of town property.

**SECTION 3-21. RESOLUTIONS NEED NO POSTING; EFFECTIVE DATE.**

Resolutions may become effective without posting and may take effect on passage or at a later date as the town council may determine, but not later than three months from the date of passage.

**SECTION 3-22. POWERS OF THE MAYOR.**

- A. Shall be the chief executive officer and administrator of the town;
- B. Shall keep the peace and enforce the laws of the town;
- C. Shall remit fines and forfeitures and may release any person imprisoned for violation of any town ordinance;
- D. Shall report such remittance or release to the council at its next regular session;
- E. Shall perform all duties prescribed by law, resolution or ordinance;

- F. Shall ensure that all the laws and ordinances and resolutions are faithfully executed and observed;
- G. May at any reasonable time examine and inspect the books, papers, records, or documents of the town or of any officer, employee or agent of the town;
- H. Shall report to the council the condition of the town and recommend for council consideration any measure as deemed to be in the best interests of the town.
- I. Shall, when necessary, call on the residents of the town over the age of 21 years to assist in enforcing the laws of the state and ordinances of the town; and
- J. Shall appoint, with the advice and consent of the council, persons to fill town offices or vacancies on commissions or committees of the town.

**SECTION 3-23. MAYOR AS A VOTING MEMBER OF THE TOWN COUNCIL**

The mayor shall vote as a member of the town council. Any member of the council appointed to act as mayor pro tempore shall cast only one vote.

**SECTION 3-24. MAYOR AS PRESIDING OFFICER – MAYOR PRO TEMPORE**

The mayor shall be the chairman and preside at the meetings of the town council. In the absence of the mayor or because of his inability or refusal to act, the town council may elect a member of the council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

**SECTION 3-25. BONDS.**

- A. Before taking the oath of office and entering on the duties of his respective office, the following named town officials shall each give a bond with good and sufficient securities, payable to the Howell Town conditioned for the faithful performance of the duties of his office and the payment of all monies received by such officers according to law and the ordinances of this municipality in the following amounts:

<u>OFFICE</u>	<u>AMOUNT OF BOND</u>
Mayor	
Councilmen .....	\$10,000.00 (Blanket Bond)
Clerk	
Treasurer .....	\$ 5,000.00

- B. All other officers of the town may by ordinance or resolution be required to furnish a personal bond with good and sufficient securities or corporate surety bond payable to the town in such penal sum as the ordinance or resolution may

establish conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinance of this municipality.

- C. The treasurers bond shall be superseded by any rules, regulation or directive of the state money management council when such rules, regulations or directives are binding on this municipality.
- D. The premium charged by any corporate surety for any bond required in this section shall be paid by the Howell Town.
- E. The bond in this section may be a blanket bond.

**SECTION 3-26. OATHS.**

All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file in the constitutional oath of office.

**SECTION 3-27. OATH – GIVEN – FILED.**

The oath of office required under this section shall be administered by the mayor; mayor pro tempore, notary public or by the town clerk. Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the town clerk.

**SECTION 3-28. FORM OF OATH.**

“I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.”

(Constitution of Utah Article IV Section 10)

**SECTION 3-29. ACTS OF OFFICIALS NOT VOIDED.**

No official act of any town officer shall be invalid for the reason that he failed to take the oath of office.

**SECTION 3-30. SALARIES.** (Amended 06-14-2022 Ord. 2022-01)

- A. The salaries or compensation of Howell Town elected officials and statutory employees shall be pursuant to Utah Code Annotated § 10-3-818 [1953 as Amended] as more fully set forth as follows:



<u>Office</u>	<u>Rate</u>	<u>Time of Compensation</u>
Mayor	\$40.00/per monthly Council Meeting	Semi-Annual – 1 <sup>st</sup> day of June and December
Council Member	\$20.00/per monthly Council Meeting	Semi-Annual – 1 <sup>st</sup> day of June and December
Town Clerk	\$16.00/hour	1 <sup>st</sup> day of each Month
Treasurer	\$16.00/hour	1 <sup>st</sup> day of each Month

- B. The salaries of non-statutory employees shall be set by Resolution by the Town Council and Mayor.

**SECTION 3-31. COMPENSATION FOR SEVERAL POSITIONS.**

Whenever any person serves in two or more positions either as officers or employees he shall receive the salary or compensation of both the office and employment.

**SECTION 3-32. COMPENSATION FOR USE OF PERSONALVECHILE ON TOWN BUSINESS**

In addition to all other compensation or salaries, any officer or employee of the town who uses his personal vehicle on town business shall be compensated for mileage at the rate as set forth by resolution adopted from time to time by the town council.

**SECTION 3-33. COMPENSATION FOR USE OF TRUCKS, TRACTORS, AND OTHER EQUIPEMENT**

Whenever it is necessary for the town to hire trucks, tractors, or other equipment within the town, compensation shall be paid at the rates as set forth by resolution adopted from time to time by the town council.

**SECTION 3-34. APPOINTMENT OF OFFICERS AND AGENTS.**

On or before the first Monday in February following a town election, the mayor with the advice and consent of the town council may appoint a qualified person to each of the offices of clerk and treasurer and such other officers as may be provided for by law or ordinance who shall hold their office subject to the will of the town council.

All officers shall continue in office until their successors are appointed and qualified.

**SECTION 3-35. SUPERVISION.**

The mayor shall supervise the official conduct of all officers of the town and investigate or cause to be investigated and present any complaint to the town council together with the results of the investigation at the next regular meeting of the town council after the complaint is received by him.

**SECTION 3-36. DUTES.**

It shall be the duty of all officers of the town to:

- A. Deliver to their successor within one week after the change of office all records, documents and property which belong to the town.
- B. Deliver to the treasurer within one week after receipt of such funds all funds of the town which the officer receives.
- C. Sign within a reasonable time all papers, documents and records received by him which requires his signature.
- D. Perform all duties imposed on him by virtue of the office held.

**SECTION 3-37. NEPOTISM** (Added 07-01-14 Ord. 2014-02)

Howell Town recognizes the sensitive nature of having family members employed within the Town, and in order to avoid such situations, the following policy is established:

- A. “Relative” for the purposes of this policy, means father, mother, husband, wife, son, daughter, sister, brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law. (Ref. U.C.A 52-3-1 (1) (d) and 52-3-4(1)).
- B. Howell Town may hire relatives of current Town employees if the new employee is not directly supervised by a Town employee with supervisory capacity, except in circumstances where the new employee is the only person available, qualified or eligible for the position, in which direct supervision may occur. In such event, the supervisor shall disclose in writing the relationship of the supervisor and employee and the Town Council shall designate another manager or person to evaluate and provide job performance or salary review of the new employee related to the supervisor. (Ref. U.C.A 52-3-1 (2) (b) and (c) (I) and (ii)).
- C. In the event two current employees of the Town, working in the same department, become relatives as defined in Paragraph A above, or a relative was employed and the supervisor was elected after the relatives employment, then both may continue in the employ of the Town, provided that in the event direct supervision does occur, the related employees shall acknowledge in writing the fact that such a relationship exists and submit such acknowledgment to the Town Mayor within 30 day after the relationship commenced. The employee or town official who exercises supervisory authority over a relative employee

- may not evaluate the relative's job performance, discipline, or recommend salary increases for the relative. (Ref. U.C.A. 52-3-1 (2)(c)(ii))
- D. An exception to the foregoing provisions shall include circumstances when the employee is a volunteer receiving no compensation from the Town for work performed; the employee is employed for a period of 12 weeks or less; the employee is the only person available, qualified, or eligible for the position; or the Town Council has determined that the supervisor is the only person available or qualified to supervise the employee. (Ref. U.C.A. 52-3-1).