

**CITY COUNCIL MEETING**  
**Tuesday, November 15, 2011 7:00 p.m.**  
**Public Safety Building**  
**3925 W Cedar Hills Drive, Cedar Hills, Utah**

*This meeting may be held electronically via telephone to permit one or more of the council members to participate.*

NOTICE is hereby given that the City Council of the City of Cedar Hills, Utah, will hold their Regular City Council Meeting on Tuesday, November 15, 2011, beginning at 7:00 p.m.

**COUNCIL MEETING**

1. Call to Order, Invocation and Pledge
2. Public Comment: Time has been set aside for the public to express their ideas, concerns, and comments (comments limited to 3 minutes per person with a total of 30 minutes for this item)

**PUBLIC HEARING(S)**

3. Amendments to the Fiscal Year 2012 Budget (July 1, 2011 to June 30, 2012)

**CONSENT AGENDA**

4. Minutes from the October 4, 2011, Regular City Council Meeting
5. Minutes from the October 18, 2011, Public Hearing and Regular City Council Meeting

**SCHEDULED ITEMS**

6. Review/Action on the 2011 Fiscal Year Audit
7. Review/Action on the Canvass of the 2011 Municipal General Election
8. Review/Action on a Resolution for a Municipal Court
9. City Manager Report and Discussion

**MAYOR AND COUNCIL REPORTS**

10. Board and Committee Reports

**EXECUTIVE SESSION**

11. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205  
\* \* \* EXECUTIVE SESSION \* \* \*
12. Motion to Adjourn Executive Session and Reconvene City Council Meeting

**ADJOURNMENT**

13. Adjourn

Posted this 10th day of November, 2011.

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Kim E. Holindrake, City Recorder

- Supporting documentation for this agenda is posted on the City's Web Site at [www.cedarhills.org](http://www.cedarhills.org).
- In accordance with the Americans with Disabilities Act, the City of Cedar Hills will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-785-9668 at least 48 hours in advance of the meeting to be held.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.



# CITY OF CEDAR HILLS

<b>AudiTO:</b>	Mayor Richardson & City Council
<b>FROM:</b>	Konrad Hildebrandt, City Manager
<b>DATE:</b>	11/9/2011

## City Council Memorandum

<b>SUBJECT:</b>	Fiscal Year 2011 Audit
<b>APPLICANT PRESENTATION:</b>	Diana Cannell, Allred Jackson Shareholder
<b>STAFF PRESENTATION:</b>	Rebecca Tehero, Finance Director
<b>BACKGROUND AND FINDINGS:</b> Pursuant to State requirements, Allred Jackson has completed the City's independent audit for fiscal year 2011. Diana Cannell will present their findings.	
<b>PREVIOUS LEGISLATIVE ACTION:</b>	
<b>FISCAL IMPACT:</b>	
<b>SUPPORTING DOCUMENTS:</b> The 2011 Independent Audit Report will be distributed at the meeting and is available online: <a href="http://cedarhills.org/pdfs/auditors_report_2011.pdf">http://cedarhills.org/pdfs/auditors_report_2011.pdf</a>	
<b>RECOMMENDATION:</b> To approve the fiscal year 2011 Independent Audit Report.	
<b>MOTION:</b> To approve the fiscal year 2011 Independent Audit Report.	



# CITY OF CEDAR HILLS

**TO:** Mayor Richardson, City Council, and Staff  
**FROM:** Kim E. Holindrake, City Recorder  
**DATE:** November 10, 2011

## City Council Memorandum

**SUBJECT:** 2011 Municipal General Election Canvass  
**APPLICANT PRESENTATION:**  
**STAFF PRESENTATION:** Kim E. Holindrake, City Recorder

### BACKGROUND AND FINDINGS:

The Municipal General Election was held on November 8, 2011. The City Council, acting as the Canvassing Board, is to review and approve the results. Please note that the election canvass is an audit of the election procedures and NOT a recount. Voters were able to vote for three Candidates for Council as well as the Alpine School District Bond. The City received 27 provisional ballots that will be verified and counted on Tuesday, November 15. These results will be provided at the canvass. There were four absentee ballots received on November 9, which must be postmarked the day before the election. Two ballots meet this requirement and will be counted at the canvass. The other two ballots will not be counted.

Review the total votes cast, poll book, tally list, and statement of disposition of ballots for each precinct. These will be provided at the meeting.

1. The Total Votes Cast sheet identifies the total number of votes received for each candidate per the specified precinct. Each total should match the extended total on that precinct's tally list for each candidate.
2. The poll book contains the name of each person voting along with the ballot number.
3. The tally list should have five tally marks per box, except perhaps the last box, and the totals are extended correctly.
4. Check the Statement of Disposition of Ballots to see that all the ballots are accounted.

The prec canvass General Election results are as follows.

**CITY OF CEDAR HILLS  
GENERAL ELECTION - NOVEMBER 8, 2011  
TOTAL VOTES CAST FOR ALL PRECINCTS**

<b>COUNCIL</b>	<b>CH01</b>	<b>CH02</b>	<b>CH03</b>	<b>CH04</b>	<b>Total</b>
Trent J. Augustus	369	210	260	108	947
Ken Cromar	135	188	163	325	811
Jerry W. Dearinger	167	221	169	351	908
Gary Gygi	396	259	272	142	1069
Jenney Rees	383	219	275	113	990
Paul Sorensen	161	225	175	351	912

**Board of Education of**

<b>Alpine School District</b>	<b>CH01</b>	<b>CH02</b>	<b>CH03</b>	<b>CH04</b>	<b>Total</b>
For the Issuance of Bonds	294	234	257	220	1005
Against the Issuance of Bonds	227	191	175	232	825

Total Ballots Cast	547	454	444	467	1912
Provisional Ballots	14	7	2	4	27

VOTER TURNOUT	CH01	1,474 registered	547 voted	37%
	CH02	1,074 registered	454 voted	42%
	CH03	1,632 registered	444 voted	27%
	CH04	1,252 registered	467 voted	37%
		Overall Percentage		36%

**PREVIOUS LEGISLATIVE ACTION:**

**FISCAL IMPACT:**

**SUPPORTING DOCUMENTS:**

**RECOMMENDATION**

To accept the election results for the 2011 General Election held on November 8, 2011.

**MOTION**

The City Council, acting as the Canvassing Board, accepts the election results for the 2011 General Election held on November 8, 2011.



# CITY OF CEDAR HILLS

<b>TO:</b>	Mayor and City Council
<b>FROM:</b>	Konrad Hildebrandt, City Manager <i>Konrad</i>
<b>DATE:</b>	11/15/2011

City Council  
**Agenda Item**

<b>SUBJECT:</b>	Resolution – Justice Court Certification
<b>APPLICANT PRESENTATION:</b>	N/A
<b>STAFF PRESENTATION:</b>	Konrad Hildebrandt, City Manager
<b>BACKGROUND AND FINDINGS:</b> In order to be certified, Cedar Hills needs to have an attorney's opinion letter and pass a resolution requesting certification. The resolution must also affirm that Cedar Hills is willing to meet all requirements for the creation and operation of the court during the certification period.  Cases reviewed would include criminal, civil and small claims cases, including zoning administration cases. Cedar Hills is applying to be a Class III justice court.	
<b>PREVIOUS LEGISLATIVE ACTION:</b>  NONE	
<b>FISCAL IMPACT:</b>  Part time Clerk – minimum 2 hours per day and a part time Judge (one time per week, or as needed)	
<b>SUPPORTING DOCUMENTS:</b> Justice Court Standards document for certification of new courts – August 2010	
<b>RECOMMENDATION:</b> Staff recommends that the City Council, by resolution, approve the Cedar Hills, Class III, Justice Court Certification application.	
<b>MOTION:</b> To approve, by resolution, the application for certification for a Cedar Hills Justice Court.	

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ADOPTING JUSTICE COURT STANDARDS FOR CERTIFICATION OF NEW COURTS.**

**WHEREAS**, the City Council of the City of Cedar Hills, Utah, desires to adopt Justice Court Standards for Certification of New Courts in preparation of creating a new Justice Court, and

**WHEREAS**, the City Council of the City of Cedar Hills, Utah, affirms its willingness to meet all requirements for the creation and operation of the court during the certification period.

**NOW THEREFORE**, the City Council of the City of Cedar Hills, Utah, resolves to approve the Justice Court Standards for Certification of New Courts and authorizes the Mayor to sign the said document (attached).

**PASSED AND APPROVED this 15th day of November, 2011.**

\_\_\_\_\_  
Eric Richardson, Mayor

ATTEST:

\_\_\_\_\_  
Kim E. Holindrake, City Recorder

**JUSTICE COURT STANDARDS**  
**FOR CERTIFICATION**  
**OF NEW COURTS**

**AUGUST 2010**

**JUSTICE COURT STANDARDS**  
**FOR CERTIFICATION**  
**OF NEW COURTS**

2010

**OPERATIONAL STANDARDS**

The following minimum requirements for the creation of a Justice Court reflect both statutory requirements and requirements which have been adopted by the Judicial Council pursuant to statute. Classification for new Courts will be based upon anticipated filings (i.e. the average number of cases per month which would have been filed in the proposed Court had the Court been in operation during the most recent calendar year).

The classification of a Court is determined at creation and is subject to review and possible reclassification whenever the Court is recertified. While the standards for some areas of court operation are uniform for all classifications of Justice Court, other standards are developed on a continuum, reflecting the difference in the time needed to competently manage caseloads at different levels.

Waiver or extension of any requirement promulgated by the Judicial Council may be obtained at the discretion of the Judicial Council based upon the need for a Court. Considerations for waiver or extension will be made on a case by case basis in consideration of, among other things, public convenience and proximity to other courts.

**CLASS I**

**MINIMUM REQUIREMENTS** [Note that the following are **minimum** requirements. In order to adequately function as a Class I Court it may be necessary for your court to exceed the minimum requirements.]

**- FILINGS:**

501 or more citations or cases filed per month

**- HOURS:**

Court Open: Full Time

Judge: Full Time

**- FACILITY:**

Dedicated Courtroom (with juror deliberation room)

Judge's Chambers

Clerk Office

Co-located in the same facility

(Meet the Master Plan Guidelines adopted by the Judicial Council)

**- CLERICAL RESOURCES:**

At least three full time clerks

**- PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

**- INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

**- LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-214.

**- LAW ENFORCEMENT:**

The local government creating the court must have at least one employed or contracted peace officer.

**- BAILIFF:**

The local government creating the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

**- SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

**- JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

**- EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours per year for the judge, and 10 hours for clerks.

**- PROXIMITY TO EXISTING COURTS:**

Proposed court location is at least 25 miles from the location of the court which is currently hearing actions which would be filed in the new court.

**- REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

**CLASS II**

**MINIMUM REQUIREMENTS** [Note that the following are **minimum** requirements. In order to adequately function as a Class II Court it may be necessary for your court to exceed the minimum requirements.]

**- FILINGS:**

201 to 500 citations or cases a month.

**- HOURS:**

Court Open

201-300 filings	At least 4 hours per day
301-400 filings	At least 5 hours per day
401-500 filings	At least 6 hours per day

Judge available when needed. Trial calendar set at least weekly.

**- FACILITY:**

Courtroom (configuration is permanent but may be shared)

Judge's Office

Clerk Office

(Courtroom and office must be co-located in the same building)

**- CLERICAL RESOURCES:**

201-275 filings	At least one full time clerk
276-350 filings	1.5 FTEs
351-425 filings	2.0 FTEs
426-500 filings	2.5 FTEs

**- PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

**- INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

**- LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-214

**- LAW ENFORCEMENT:**

The local government creating the court must have at least one employed or contracted peace officer.

**- BAILIFF:**

The local government creating the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

**- SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

**- JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

**- EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours per year for the judge, and 10 hours for clerks.

**- REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

**CLASS III**

**MINIMUM REQUIREMENTS** [Note that the following are **minimum** requirements. In order to adequately function as a Class III Court it may be necessary for your court to exceed the minimum requirements.]

**- FILINGS:**

61-200 citations or cases per month

**- HOURS:**

Court Open

61-150 filings

At least 2 hours a day

151-200 filings

At least 3 hours a day

Judge available as needed. Trial calendar set at least every other week.

**- FACILITY:**

Courtroom (access to public facility for trials, arraignments, etc.)

Judge's /clerk office

(Meets minimum requirements)

**- CLERICAL RESOURCES:**

At least one clerk required to be available daily during the scheduled hours of court operation and during court sessions as needed.

**- PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

**- INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

**- LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-214

**- LAW ENFORCEMENT:**

The local government creating the court must have at least one employed or contracted peace officer.

**- BAILIFF:**

The local government creating the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

**- SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

**- JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

**- EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours each year for the judge, and 10 hours for clerks.

**- PROXIMITY TO EXISTING COURTS:**

Proposed court location is at least 25 miles from the location of the court which is currently hearing actions which would be filed in the new court.

**- REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

## CLASS IV

**MINIMUM REQUIREMENTS** [Note that the following are **minimum** requirements. In order to adequately function as a Class IV Court it may be necessary for your court to exceed the minimum requirements.]

**- FILINGS:**

0-60 citations and/or cases per month

**- HOURS:**

Court open at least one hour per day. Judge available as needed and trial calendar set at least monthly.

**- FACILITY:**

Courtroom (access to public facility for trials, arraignments, etc.)  
Judge's/clerk office (can be a shared resource but court has priority when needed.)  
(Meets minimum requirements)

**- CLERICAL RESOURCES:**

At least one clerk required to be available daily during the scheduled hours of court operation and during court sessions.

**- PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

**- INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

**- LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-214

**- LAW ENFORCEMENT:**

The local government creating the court must have at least one employed or contracted peace officer.

**- BAILIFF:**

The local government creating the court must provide a sworn law enforcement officer to

attend court when required and provide security for the court.

- **SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- **JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

- **EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours each year for the judge, and 10 hours for clerks.

- **PROXIMITY TO EXISTING COURTS:**

Proposed court location is at least 25 miles from the location of the court which is currently hearing actions which would be filed in the new court.

- **REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

JUSTICE COURT STANDARDS  
FOR CERTIFICATION  
OF NEW COURTS

2010

INSTRUCTIONS TO APPLICANT FOR RECERTIFICATION

As part of the application process, each entity should carefully review all requirements for the creation and operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of the Court, the governing body of each entity must request and review a written opinion from its attorney advising the entity of all requirements for the creation and operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting certification. The resolution must also affirm that the entity is willing to meet all requirements for the creation and operation of the Court during the period of certification. **A copy of the attorney's opinion and the resolution must accompany the application.** A representative of the entity may appear before the Committee to present the application and may present any additional information which the applicant desires to present to the Committee. In the event that additional information is deemed necessary, the Committee may request such additional information from the applicant. Certification will certify the court to process all cases which come within the jurisdiction of the court including criminal, civil and small claims cases.

Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (78A-7-213).
2. Each court shall be opened and judicial business shall be transacted every day as provided by law (78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (78A-7-213).
5. The entity creating the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (78A-7-207 and 78A-7-211).

6. The entity creating a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (78A-7-205).

7. The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (78A-7-211).

8. The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (78A-7-209).

9. The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (78A-7-209).

10. The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (78A-7-209).

11. Witnesses and jury fees as required by law shall be paid by the entity which creates the court (10-7-76 and 17-50-319).

12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (78A-7-120 and 78A-7-121).

13. Every entity creating a court shall pay the judge of that court a fixed compensation, within the range provided by statute (78A-7-206).

14. Court shall be held within the jurisdiction of the court, except as provided by law (78A-7-212).

15. The entity creating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (78A-7-214).

16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

17. Effective July 1, 2011, all justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council (78A-7-213).

In addition to those requirements which are directly imposed by statute, section 78A-7-103 directs the Judicial Council to promulgate minimum requirements for the creation and certification of Justice Courts. Pursuant to statute, the Judicial Council has adopted the following minimum requirements:

- 1) That the Court be opened for at least one hour each day that the court is required to be open as provided by law. Additional hours of operation are specified in C.J.A. Rule 9-105.
- 2) That the judge be available to attend court and conduct court business as needed.
- 3) That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public. (A suggested courtroom configuration is attached).
- 4) A judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.
- 5) Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.
- 6) A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
- 7) The entity must have at least one peace officer (which may be contracted).
- 8) A court security plan must be submitted consistent with C.J.A. Rule 3-414.
- 9) Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety. Monthly reports must also be electronically submitted to the Administrative Office of the Courts monthly. Also note that effective July 1, 2011, all justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council (78A-7-213).
- 10) Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity between Justice Courts within the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. In the case of a new court the classification is based upon anticipated case filings. Minimum standards have been set for each classification. Courts which have an average of less than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court are stated above. (These requirements are also attached as Class IV minimum requirements). These requirements include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week (see attached Class III minimum requirements), and court must be scheduled at least every other week.

Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours (see attached Class II minimum requirements), the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided (see attached Class II minimum requirements), and the courtroom, judge's chamber and clerk's office must be in the same building.

Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three clerks, it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

The State Legislature has provided that any entity that meets the requirements for its class may create a Justice Court. Any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement imposed by rule of the Council rather than by statute. Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will generally be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified, and the fact that a waiver has been previously granted will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court,

the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions.

In order to adequately function it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas; and in such circumstances waiver may be requested.

The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

Applications for existing courts for recertification shall be accompanied by a affidavit of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

Upon submission of an application, the Justice Court Standards Committee will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If the Committee intends to recommend against certification, it shall specify the minimum requirements that have not been met. The entity may then present additional information to the Committee, request an extension, or request a waiver. After making an appropriate investigation based upon any additional information or request made by the entity, the Committee will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. If the recommendation is against recertification, or against waiver, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the Committee's recommendations.

Upon approval of an application to create a new court, the Judicial Council will issue a preliminary certification. After receiving the preliminary certificate, the entity creating the court shall proceed to take all action necessary for the court to begin its operation. When the entity has

taken all steps necessary for the court to begin operation in compliance with the applicable minimum standards, it shall notify the Judicial Council in writing and a final certification shall issue. The court shall not begin to operate until the final certification is issued.

If you have any questions concerning this application, please contact Richard Schwermer, staff to the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, telephone: (801)578-3816.

## MINIMUM COURTROOM/ OFFICE STANDARDS

(Under certain circumstances, courtrooms may be in shared facilities and the judicial configuration set up when needed for trial or arraignments.)

### **Model Courtroom Diagram**

(This is a suggested model. Local variations will be allowed.)

The judge's table/desk shall be set on risers when the facilities allow. This provision may be waived if facility cannot accommodate the storage or placement of risers.

Prosecution and defense tables shall be separated.

A room shall be available for juror deliberation or victim/witness waiting.

The following shall be supplied;

- a. a robe
- b. a gavel
- c. Utah Code
- d. Bail Schedule
- e. necessary forms and office supplies.
- f. court seal

## JUDGE'S/CLERK'S OFFICE

The following shall be available to the judge;

- a. a desk
- b. a secure file
- c. a telephone
- d. office supplies

The following shall be available to the clerk;

- a. a desk
- b. file cabinet with secure file
- c. telephone
- d. office supplies
- e. cash register/secure cash box
- f. typewriter or word processor
- g. access to a copy machine
- h. computer and internet access

**APPLICATION FOR NEW JUSTICE COURT**

Name of Entity: \_\_\_\_\_

Proposed Court Location: \_\_\_\_\_

\_\_\_\_\_

Anticipated Level of the Court (Circle one):

I    II    III    IV

Anticipated average case filings per month: \_\_\_\_\_

Please attach a map which shows the boundaries of the proposed Court's jurisdiction. (The map should also show all Courts which are located within 25 miles of the location of the Court).

State the population within the jurisdiction of the proposed court according to the most recent figures. \_\_\_\_\_

List all law enforcement agencies which will be regularly involved in law enforcement within the jurisdiction of the proposed court.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the applicant has a law enforcement department, state the number of sworn law enforcement officers within the department.

\_\_\_\_\_

If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services to the proposed Court.

\_\_\_\_\_  
\_\_\_\_\_

List all existing Justice Court locations within 25 miles of the proposed Court:

<u>Name of Existing Court</u>	<u>Address</u>	<u>Miles from Location of Proposed Court</u>
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For each Court listed above, list the average number of cases filed each month during the most recent calendar year which would have been filed in the proposed Court, had the proposed Court been in operation.

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If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the time requested. For each requested waiver, please indicate whether or not this application is conditioned upon receiving a waiver. Remember, those items which are statutory are **not waivable** (Numbers 1-16).

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I am familiar with the minimum operational standards for a Justice Court. Enclosed please find a written opinion from our attorney \_\_\_\_\_, advising the undersigned entity of all requirements for the creation and operation of a Justice Court, and the feasibility of this entity maintaining a Justice Court. Also, please find enclosed a resolution requesting certification for a new Court which resolution affirms that the undersigned entity is willing to meet all requirements for certification (except when the application is conditioned upon receiving a waiver) during the initial term of the proposed Court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

Title

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

NOTARY PUBLIC

Residing at: \_\_\_\_\_

Commission Expires:

\_\_\_\_\_

**NOTE:** Please find attached the Application for Certification. After a Court is approved and before the Court begins to operate, it will be necessary for the governing body of the entity which has requested certification to fill out the application and forward it to the Justice Court Standards Committee.

**COURT CERTIFICATION AFFIDAVIT**

Proposed Court Location: \_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Level of Court (Circle one): I II III IV

Case Filings Per Month: \_\_\_\_\_

Daily Court Hours: \_\_\_\_\_

Number of Full-time Clerks: \_\_\_\_\_  
# Hours Worked Per Week Per Clerk: \_\_\_\_\_

Number of Part-time Clerks: \_\_\_\_\_  
# Hours Worked Per Week Per Clerk: \_\_\_\_\_

This form is divided into two parts. Section I contains those requirements that are statutory and are not waivable. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the instructions to applicant included with the application for certification.

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Comes now \_\_\_\_\_,  
for \_\_\_\_\_  
\_\_\_\_\_ and,

except as specifically noted below, certifies as follows:

**SECTION I**

**THE FOLLOWING ITEMS ARE STATUTORY AND CANNOT BE WAIVED. CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS MET.**

Please indicate **Yes or No** to each of the following:

1. Arrangements have been made so that all official court business will be conducted in a public facility. \_\_\_\_\_
2. Court is open daily. \_\_\_\_\_
3. The hours of court operation will be posted conspicuously. \_\_\_\_\_
4. The judge and the clerk will be required to attend court at regularly scheduled times based on the level of the court. \_\_\_\_\_
5. The judge will be compensated at a fixed rate, within the statutory range. \_\_\_\_\_
6. The responsible governmental entity will provide and compensate sufficient clerical personnel necessary to conduct the business of the court. \_\_\_\_\_
7. The responsible governmental entity will assume the expenses of the travel of the judge for purposes of required judicial education. \_\_\_\_\_
8. The responsible governmental entity will assume the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. \_\_\_\_\_
9. The responsible governmental entity will provide the Court with:
  - a. Sufficient prosecutorial support \_\_\_\_\_
  - b. Funding for attorneys for indigent defendants, as appropriate \_\_\_\_\_
  - c. Sufficient local law enforcement officers to attend court as provided by statute \_\_\_\_\_
  - d. Security for the court as provided by statute \_\_\_\_\_
  - e. Witness and juror fees \_\_\_\_\_
  - f. Copies of the motor vehicle laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances and other necessary legal reference materials \_\_\_\_\_

10. Procedures have been adopted to insure that fines, surcharges and assessments which are payable to the state will be forwarded as required by law. \_\_\_\_\_
11. Court will be held within the jurisdiction of the court, except as provided by law (78A-7-212). \_\_\_\_\_
12. All required reports and audits will be filed as required by law or Rule of the Judicial Council. \_\_\_\_\_

## SECTION II

**Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the instructions to applicant included with this application for certification.**

Please indicate YES or NO to each of the following:

1. Arrangements have been made so that court will be open each day as appropriate for the classification of the court. \_\_\_\_\_
2. Arrangements have been made so that the judge will be available to attend court and to conduct court business as needed. \_\_\_\_\_
3. Minimum furnishings in the courtroom have been provided, including:
  - a. Desk and chair for the judge \_\_\_\_\_
  - b. A six inch riser \_\_\_\_\_
  - c. Desk and chair for the court clerk \_\_\_\_\_
  - d. Chairs for witnesses \_\_\_\_\_
  - e. Separate tables and appropriate chairs for plaintiffs and defendants \_\_\_\_\_
  - f. A Utah State flag \_\_\_\_\_
  - g. A United States flag \_\_\_\_\_
  - h. A separate area and chairs for at least four jurors \_\_\_\_\_
  - i. A separate area with appropriate seating for the public \_\_\_\_\_
  - j. An appropriate room for jury deliberations \_\_\_\_\_
  - k. An appropriate area or room for victims and witnesses which is separate from the public \_\_\_\_\_
  - l. A judicial robe \_\_\_\_\_
  - m. A gavel \_\_\_\_\_
  - n. Current bail schedules \_\_\_\_\_

- o. A copy of the Code of Judicial Administration \_\_\_\_\_
  - p. Necessary forms and supplies \_\_\_\_\_
  - q. Office space for the judge \_\_\_\_\_
  - r. Office space for the court clerk \_\_\_\_\_
  - s. Secure filing cabinets \_\_\_\_\_
  - t. Appropriate office supplies \_\_\_\_\_
  - u. A cash register or secured cash box \_\_\_\_\_
  - v. At least one computer with internet access \_\_\_\_\_
  - w. Access to a copy machine \_\_\_\_\_
4. The appropriate number of clerks will be provided as required by the classification of the court, and will be present during the time court is open each day and as needed during court sessions. \_\_\_\_\_
  5. Does the applicant have a law enforcement department? \_\_\_\_\_
  6. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  7. A security plan will be submitted consistent with C.J.A. Rule 3-414. \_\_\_\_\_
  8. The court has the ability to electronically report to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. \_\_\_\_\_
  9. I am familiar with the minimum operational standards for this court, and except as noted below, those standards are currently in place and available to the court. \_\_\_\_\_

Any exceptions to the above are specifically set forth as follows:

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DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_  
Title

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Residing at: \_\_\_\_\_

\_\_\_\_\_

Commission Expires:

\_\_\_\_\_