

PROVIDENCE CITY COUNCIL MEETING MINUTES

Tuesday December 5th, 2023, 6:00 PM

Providence City Office Building, 164 North Gateway Drive, Providence UT

To view the monthly financial statements of the city please click [HERE](#).

To view the video recording of the minutes please visit the City's YouTube Channel found [HERE](#).

HR. MIN. SEC. in green above agenda items are timestamps of the YouTube recording.

Opening Ceremony:

Call to Order: Mayor Alder

Roll Call of City Council Members: Mayor Alder, Council Members Paulsen (via zoom), Kirk, Sealy, Speth & Nebeker.

Staff in Attendance: Ryan Snow (City Manager), Rob Stapley (Public Works Director), Skarlet Bankhead (Community Development Director), Ty Cameron (City Recorder).

Pledge of Allegiance: Council Member Nebeker.

Opening Remarks/Prayer: Council Member Speth.

3 MIN. 40 SEC.

Council Reports: Items presented by the City Council Members will be presented as informational only; no formal action will be taken.

Council Member Kirk:

- Attended the Cache Valley Housing Crisis Collaboration Luncheon. At the Cache Valley Housing Crisis Collaboration Lunch, they discussed the housing crisis and its impact on the community. They noted that Cache County needs 1100 homes built annually to meet current demand, with 800 permits being pulled annually. Also noted the need for an increase in tradesman to help create a better competitive market. During the luncheon Jeff Jackson from Visionary Homes announced they have a partnership with Cache County School District to provide scholarships and recruitment for tradesmen to hopefully help the housing market.
- Has plans to meet with Chris Wilson and Casey Snyder to discuss some of the issues that the city and county are dealing with and how best to address them.
- Informed everyone of the Tree Lighting Celebration that will be taking place this Thursday at 5:30 pm. Noted that the tree will be lit at 7 pm and that Santa should be there around 5:30.
- Reported that a few citizens have come to her about neighbors who have Christmas lights that strobe. Commented that the lights could be seen as a safety concern for people who are prone to seizures. Volunteered to investigate the issue.

Council Member Sealy:

- The school board will be ratifying a vote on a bond tonight, that had 60% approval, allowing Spring Creek Middle School to be turned into an elementary school here in Providence. The new middle schools, which were proposed in the bond, need to be built before the conversion of the middle school to an elementary

school can take place and for the moment, they are still working on acquiring land to build the new middle schools.

- Working with Utah State University on a wellbeing survey, which will be a citywide survey for wellness research. Hoping the city and staff will help promote participation so that they can have more data gathered and used.
- Thanked Josh Paulsen for his time and service on the Council and wished him luck in his future endeavors.

Council Member Paulsen:

- Had nothing to report but commented that he has enjoyed his time serving on the council.

Council Member Speth:

- He attended a Red Cross Boot Camp in November, where they trained people on setting up shelters. Noted that the Red Cross is well-staffed but is always seeking volunteers to help.
- Commented that as winter approaches residents should do what they can to make sure their carbon monoxide and smoke detectors are updated and working. The Red Cross is working to install free smoke and carbon monoxide detectors in homes where people qualify for them.
- Discussed the future of the city and the need to get an emergency power source to provide emergency power to pump water in case of power failure.

Council Member Nebeker:

- Talked about work, family life and city service and finding a balance between them. Thanked Josh for his years of service and the input he has shared over the years regarding city issues and needs.

Mayor Alder:

- Thanked Josh Paulsen for his service saying that she appreciated his ability to think out of the box.
- Continues to serve on the Conservation Board, which is working to secure funding from the legislature to conserve land. They are awaiting the governor's budget and plan to consult with the director to determine if they will be included in the budget this year.
- Also represents the mayors on the Chamber of Commerce Board, which allows them to meet with community members and secure support for their cause and discuss issues that are arising that need to be addressed.

18 MIN. 10 SEC.

Approval of the minutes:

The Providence City Council will consider for approval the minutes of November 15th, 2023. ([MINUTES](#))

- Mayor Alder called for a motion to approve the minutes of November 15th, 2023.
- Parties noted that no corrections were needed.

- Council Member Speth commented that he would abstain from voting as he was not present for the meeting.

Motion to approve the minutes of November 15th, 2023 – Council Member Nebeker. 2nd – Council Member Sealy.

Vote:

Yea-Council Members Paulsen, Kirk, Sealy and Nebeker.

Nay-

Abstained- Council Member Speth.

Absent-

Motion passes, minutes approved.

Election/ Canvass Report:

19 MIN. 15 SEC.

- **Item No. 1 Elections Report/Canvass:** The Providence City Council will review, discuss, and will consider for approval the City's 2023 General Election Canvass report from Cache County which includes the nomination of three council members; and will declare those persons with the highest number of votes per the report as the newly elected officials for Providence City come January 1st, 2024.

(OFFICAL ELECTION RESULTS) & (GENERAL CANVASS)

- Mayor Alder called item 1, gave a brief introduction.
- Parties reviewed and discussed the official results and numbers.
- Mayor Alder announced the three council members who won the election with the number of votes they received.

Motion to accept or ratify the 2023 official general election canvass report or election results approving the vote of the citizens nominating three council members. – Council Member Sealy. 2nd – Council Member Speth.

Vote:

Yea- Council Members Paulsen, Kirk, Sealy, Speth & Nebeker

Nay-

Abstained-

Absent-

Motion passes, election results are certified. Council Members Speth and Kirk retain their seats and David Kunz will replace Council Member Josh Paulsen starting in January.

Plans & Other Business:

21 MIN. 20 SEC.

➤ **Item No. 2 Cache Valley Transit District Board Representative:** The Providence City Council will review, discuss, and may move forward with the appointment of a representative to the Cache Valley Transit District (CVTD) board. Jeff Turley is being nominated to represent the city.

- Mayor Alder called item 2, gave a brief introduction and remarked that Jeff Turley is present here tonight for the meeting.
- Mayor Alder commented that Jeff Turley, a long-time board representative for the Cache Valley Transit District, has expressed his willingness to serve Providence City and River Heights City on the board. He has been serving on the board for many years.
- He commented that it has been a pleasure to serve the city. Remarked that the recent cut of board members from 19 to 9 has reduced the board and caused the need to appoint representatives to represent multiple towns to help focus on the issues and future plans of the transit district.
- Parties discussed the new ‘pool’ service, which allows riders to schedule rides to and from the transit center. The ‘pool’ is a shared ride that picks up passengers at locations closer to their homes and takes them to the transit center, where they can catch other buses to go anywhere they want. To schedule a ride back, riders must call the transit center or schedule a ride from the transit center or app back to their desired stop in the city.
- Mr. Turley commented that he is excited to continue serving on the board and share his experiences with the group.
- Parties discussed how to access or request the ‘pool’ service.
- The parties talked about future reporting presentations from Mr. Turley. Mr. Turley responded that he would be happy to present on what’s going on with the transit district whenever possible.

Motion to appoint Jeff Turley to represent Providence City on the Cache Valley Transit District Board. – Council Member Kirk. 2nd- Council Member Speth.

Vote:

Yea- Council Members Paulsen, Kirk, Sealy, Speth & Nebeker

Nay-

Abstained-

Absent-

Motion passes. Jeff Turley will represent the city on the board.

➤ **Item No. 3 Fiber Amendments:** The Providence City Council will review, discuss and may take action on proposed amendments to the Fiber Optic Cable License and Network Operation Agreement.

(AMENDMENT 1) (AMENDMENT 2)

- Mayor Alder called item 3, gave a brief introduction and asked Ryan Snow to give an overview of the amendments.
- Ryan Snow reported that the Council has adopted a pricing model that includes network service fees for two gigs and ten gigs, which are \$30 and \$50 respectively as shown in the graph. This

does not change pricing but is incorporated into the contract that the city already has with Strata. Strata also has the ability to update labor rates, maintenance etc. annually, for installations after construction is complete and for future repairs. This does not affect the monthly rate of residents. If someone hasn't connected before the contract ends in April, then they can connect under these rates and guidelines. These amendments are more detailed and detailed by the type of work and service. The new fiber drop pricing system is more specific and relates to the actual cost of the drop, rather than the length of the drop. The old drop pricing was more general.

- Mr. Snow reiterated that the new pricing system is based on trenching and backfilling, rather than just a drop. After April, after the contract for new construction is finished, there will be a fee related to the drop pricing. Strata will come back and make the connection, and there will be a fee for the connection, blowing, placing, and installing the fiber.
- Parties discussed pricing and who would be responsible for the payments. Mr. Snow indicated that Strata would bill the city and then the city or Council would decide if it is passed along to the owner of if the city will pay it.
- Ryan confirmed that the amendment is between Strata and the city not between the city and its residents. Parties commented on fee schedule. Ryan indicated that the fee schedule is not part of this amendment and is something the Council will need to discuss in the future.
- The parties discussed the process for residents to connect if they don't connect now while Strata is completing the project.
- The Council raises questions about the fairness of the Strata pricing to the city and whether inflation plays a role in the pricing. Mr. Snow responded that he believes that the pricing is fair and not an inflated one. Acknowledges that the operator agreement takes care of repairs and other costs, and that these amendments are not due to Strata trying to recover lost fees.
- The parties discussion revolves around the proposed amendment and the potential impact on the pricing and service provision between Strata and the city.
- Parties talk about the utility fee and residents connecting to fiber in the future and more on what that will look like.

Motion to accept amendment 1 & 2 of the Fiber Optic Cable License and Network Operation Agreement with the correction of the year change from 2022, as currently reads, to 2023 which it is. – Council Member Sealy. 2nd- Council Member Speth.

Vote:

Yea- Council Members Paulsen, Kirk, Sealy, Speth & Nebeker

Nay-

Abstained-

Absent-

Motion passes, amendments approved.

- Mayor Alder noted that David Kunz, who won a seat on the Council and who would be replacing Josh Paulsen, was here tonight and asked if he would like to introduce himself.
- David Kunz introduced himself and stated that he was excited to have been elected and is looking forward to working with everyone. Discussed his educational and work background.
- Council congratulated him on his win and welcomed him to the Council.

- 220
221
222 ➤ **Item No. 4 City Manager Performance Review (to be held during closed session):** The Providence
223 City Council will move to a closed session to do their annual review of the City Manager. Council may
224 discuss and take action on the City Managers compensation and merit bonuses.
225

226 **Executive Session Notice:** The Providence City Council may enter into a closed session to discuss
227 pending or reasonably imminent litigation as allowed by Utah Code 52-4-205(1)(c). The Providence
228 City Council may enter into a closed session to discuss professional competence or other factors
229 allowed by Utah Code 52-4-205(1)(a). The Providence City Council may enter into a closed session
230 to discuss land acquisition or the sale of real property Utah Code 52-4-205(1) (d) and (e).
231

- 232 • Mayor Alder called item 4 and indicated that this item will be handled in a closed session. Called
233 for a motion.
234

235 **Motion to enter closed session. – Council Member Speth. 2nd- Council Member Sealy.**

236 **Vote:**

237 **Yea- Council Members Kirk, Sealy, Speth & Nebeker**

238 **Nay-**

239 **Abstained-**

240 **Absent- Council Member Paulsen.**
241

242 **Motion passes, council enter closed session.**
243

- 244 • During closed session the Council discussed a bonus for the city manager and made the following
245 motion.
246

247 **Motion to award a \$2000 bonus to the City Manager. – Council Member Kirk. 2nd Council Member**
248 **Sealy.**

249 **Vote:**

250 **Yea- Council Members Kirk, Sealy, Speth & Nebeker**

251 **Nay-**

252 **Abstained-**

253 **Absent- Council Member Paulsen.**
254

255 **Motion passes, City manager will be awarded a \$2000 bonus.**
256

257 **46 MIN. 55 SEC.**

258 **Staff Reports:** Items presented by Providence City Staff (including but not limited to: City Recorder, Public 209
259 Works Director, Community Services Director, and City Manager) will be presented as information only.
260

261 Ty Cameron (City Recorder)
262

- Parties discussed the election statistics and the meaning of undervotes and mailed letters. Parties talked about the 6th precinct which accounts for County residents since there was on bond to be voted on.

Skarlet Bankhead (Community Development Director)

- Thanked Josh Paulsen for his service on the Council and commented that it was a joy to work with him.
- Thanked Nicole and Ashley for their work on the Christmas Tree Lighting celebration that is scheduled for this Thursday and commented that staff are always looking to improve the lighting every year. The weather is expected to be good, and the parking plan is still in place. Part of the roundabout will be closed.
- Reported that the city is doing the holiday lighting contest again this year but have changed the format so that anyone can nominate their neighbor or a house. Indicated that they have only received 2 submissions and noted that the city may stop the contest as there has not been much participation.
- Parties discussed if anyone could nominate any house and how to get more involvement.
- Colton, who does code compliance for the city, is putting notices on vehicles to remind them about winter parking hours, and he believes people are paying more attention to the hours. He is also focusing on stationary things like dirt piles and making calls to keep them out of the right way.
- Attended a lunch sponsored by Cache Valley Home Builders and was disappointed by the lack of representation from other communities or cities. The County, Logan City, Providence, and North Logan were in attendance. While there they heard the perspective of home builders, who have different perspectives than developers a found it very informative.
- Commented that there is a misconception that cities have more power than they do. It is important to understand that the issue is not at the administrative level, such as submitting development or building permit applications. Cities should have ordinances in place that allow the process to be passed relatively smoothly, but at the legislative level, and with zoning, where the fight is more difficult and harder to understand is where there are issues. The public must be willing to accept zoning changes.
- Commented on the different rules and legislation that govern cities based on their size. Noted that it was stated by a builder that around 250 people are directly involved in the building of home, from real-estate agents, subcontractors, and other stakeholders like banks.
- Commented that she would like to see more cities involved in events like these as well as city engineers who also play a big role in developments.
- The Council asked if the Tree Lighting celebration could be held earlier than the current first Thursday of December. Mrs. Bankhead responded that she would bring it to staff and saw no issues with doing it in the last week of November.

Rob Stapley (Public Works Director)

- Thanked Josh Paulsen for his time on the Council and what he has contributed to the city.
- Commented that as the snow had arrived a little late this year, they were able to pick up more leaves and hopes that will help keep things clear.
- Reported that water levels or usage are down, as is expected, as we head into the winter months.
- Noted that the department is working with 3-5 new snowplow drivers and asked the Council and residents to be patient as there is a learning curve to plowing snow.

- Informed that there was a water leak over the weekend on 2nd west, but that staff were able to get that fixed.
- The parties discussed the well drilling and Mr. Stapley commented that the group had to demobilize but would be back in the spring to continue drilling. Indicated that the well has been filled.

Motion to adjourn meeting. -Council Member Speth. 2nd- Council Member Kirk

Vote:

Yea- Council Members Kirk, Sealy, Speth & Nebeker

Nay-

Abstained-

Absent- Council Member Paulsen.

Motion passes, meeting adjourned.

Next meeting will be held on January 17th, 2024.

Minutes approved by Council on ____ day of _____ 2024.

Kathleen W. Alder, Mayor

Ty Cameron, City Recorder

Resolution 01-2024

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY COUNCIL BYLAWS.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, "Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . ."

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS the Providence City Council desires to make changes to the City Council Bylaws:

- Ryan Snow and Mayor Alder reviewed and revised the attached draft;

THEREFORE, be it resolved by the Providence City Council:

- The attached draft of the City Council Bylaws shall be approved; and
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 17th day of January 2024.

Council Vote:

Kirk, Carrie	(X) Yes	() No	() Excused	() Abstained	() Absent
Kunz, David	(X) Yes	() No	() Excused	() Abstained	() Absent
Speth, Brent	(X) Yes	() No	() Excused	() Abstained	() Absent
Sealy, Jeanell	(X) Yes	() No	() Excused	() Abstained	() Absent
Nebeker, Jeff	(X) Yes	() No	() Excused	() Abstained	() Absent

Providence City


Kathleen W Alder, Mayor

Attest:


Ty Cameron, City Recorder

PROVIDENCE CITY

City Council Bylaws

ARTICLE I - GENERAL PROVISIONS

1.1 Applicable State Statutes, City Code, and Bylaws.

The Providence City Council hereinafter referred to as the "Council," shall be governed by Utah Code, Providence City Code, and bylaws including the following:

- A. Title 10, Utah Municipal Code describing municipal government, Title 10, Chapter 9, Municipal Land Use Development and Management Act, describing planning and zoning, and Title 52, Chapter 4 of the Utah Code describing open and public meetings.
- B. Providence City Code governing the activities of the Council.
- C. The bylaws of the Council as set forth herein.

NOTE: These bylaws are not adopted by ordinance and do not have the force of law. They are guidelines only. Consequently, should the Council waive or suspend or otherwise deviate from these bylaws during the course of a hearing/meeting, such deviation shall not be grounds for invalidating a meeting held during such meeting or any decisions made at such meeting.

1.2 Requirement of Familiarity with State Statutes, City Code, and Bylaws Affecting the Council

Upon taking office, all members of the Council shall familiarize themselves with the foregoing and, while in office, members shall maintain such knowledge, including knowledge of amendments and additions, and shall be governed thereby in the conduct of the Council affairs.

1.3 Bylaws of Council to be Available in Recorder's Office

An official copy of the bylaws of the Council, in current form, shall be available in the recorder's office as a public record. Additional copies shall be provided to members of the Council and made available to the public upon request, but the official copy in the office of the recorder shall govern.

1.4 Location of Recorder's Office

The Providence City Recorder's office is located in the Finance and Records Department in the Providence City offices, 164 North Gateway Drive, Providence, Utah, 84332.

1.5 Conflict with Other Regulations

If these bylaws conflict with Federal, State, or City codes and/or ordinances, the federal, state, or city codes and/or ordinances shall prevail.

ARTICLE II - MEMBERS, QUORUM, AND RULES

2.1 Number of Members

The membership of the Council consists of six (6) members; one (1) Mayor and five (5) Council Members.

2.2 The Mayor as Chair

The Mayor shall be the Chair of the Council and preside at Council meetings. The duty of the chair is to keep meetings orderly, civil and expeditious. As chair, the Mayor shall determine if a quorum is present, will call the meeting to order, call up each item of business and ask for motions. The Mayor may ask the City staff for comment. The Mayor may invite comments from members of the public in attendance. The Mayor may ask disorderly or disruptive persons to leave the room and City property; however, as needed, removal of disorderly or disruptive person(s) will be in accordance with UCA 10-3-608 by an officer of the Cache County Sheriff's Department.

The Chair shall maintain order and decorum, and to that end, may order removal of disorderly or disruptive persons by an officer of the Cache County Sheriff's Department.

2.3 Mayor Pro Tempore

In the absence of the Mayor, or because of his/her inability or refusal to act, the Council may elect a member of the Council to preside over the meeting(s) as Mayor Pro Tempore and Chair, who shall have all the powers and duties of the Mayor during his/her absence or disability. The election of Mayor Pro Tempore shall be entered in the minutes of the meeting. The Mayor Pro Tempore shall retain his/her voting privilege.

2.3 Quorum.

The number of members of the Council necessary to constitute a quorum is three (3). 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, and shall never be less than three (3). The Mayor may only vote in the case of a tie, when the Council is voting on whether to appoint or dismiss a municipal manager or on an ordinance that enlarges or restricts the Mayor's powers, duties, or functions (UCA 10-3b302).

2.3 Rules of Procedure.

Except as otherwise specifically required or provided by law, or by resolution of the Council, the following rules will apply:

A. The Chair participates in the meeting as an equal member.

- B. The Chair may open an item for discussion that includes the Council members and may include the public.
- C. The Chair will introduce an agenda item and ask for a Council motion. After the motion is made and seconded, the Council may discuss the motion and invite City staff comment and input.
- D. Ordinances and resolutions will be adopted/approved by motion and vote.
- E. Motions.
 - i. A motion should be worded so as not to conflict with a higher law. All motions require a second. If there is no second, the motion dies.
 - ii. The members may discuss and the mover may amend by rewording or withdrawing the motion provided there is a second and not more than one member objects. If members object, a new motion may be made; and a vote taken on the new motion. If the new motion passes, it stands and the previous motion no longer applies. If the new motion fails, a vote is taken on the previous motion.
 - iii. Amendments can delete, substitute or add words to the motion on the floor but must not negate it or change its topic. The motion can be defeated and stated again if necessary.
 - iv. A motion can be postponed/tabled/continued to an indefinite or a specific future occasion or referred to a committee for further study. A majority vote is required.
- F. Rescind, Reconsider. A previous decision can be rescinded or reconsidered by the members.
 - i. The motion must have been passed in either the last or the current meeting.
 - i. If the motion was passed in the last meeting, the member must notify the Chair of their desire to reconsider so the item may be listed on the current meeting agenda. A vote of 1 Council member will be needed to reconsider.
 - ii. The member making the motion must have information on the issue that was not available in the original vote on the motion.
 - iii. The member must have been with the prevailing side of the original vote.
 - iv. In the case of a motion that fails when only three voting members are present at the meeting and the vote is split, the motion will be reconsidered at the next meeting with four or more members.
- G. Voting shall be in accordance with Utah Code 10-3-506. A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the municipality and in any other case at the request of any member of the governing body by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.
- H. Training and Orientation. On an annual basis, the Mayor shall ensure that training sessions are held for Council members to include the Open Public Meeting Act

(OPMA) U.C.A. 52-4, Government Records Access and Management Act (GRAMA) UCA 52G-2, and Municipal Officers' and Employees' Ethics Act 10-3-1301.

ARTICLE III - COUNCIL and STAFF

3.1 ~~Administrative Services Director/~~Recorder.

~~The Administrative Services Director /~~ The Recorder, acting under the general direction of the ~~City Manager~~ **Mayor**, is responsible for providing staff duties to the Council.

3.2 Duties of City Recorder.

Pursuant to Utah Code 10-6-137 the City Recorder or Deputy City Recorder shall attend the meetings and keep the record of the proceedings of the governing body.

Subject to provisions of these rules, ~~and under the direction of the Mayor~~, the City Recorder shall in general attend to all correspondence of the Council; send out or cause to be published all required notices; attend all hearings/meetings of the Council (except when excused by the Mayor with temporary services arranged); compile all required records; maintain the necessary schedules, minutes, files, and indexes; and generally perform or supervise all clerical work of the Council.

ARTICLE IV - CONDUCT OF COUNCIL MEMBERS AND STAFF

4.1 Conflicts of Interest

Council members and staff will abide by UCA10-3-1304, 1306, 1307, 1308 and 1310 of the Municipal Officers' and Employees' Ethics Act as follows:

A. Use of Office for Personal Benefit (10-3-1304)

It is an offense for an elected or appointed officer or municipal employee to:

- (i) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or employee's official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for the officer or employee or for others;
- (ii) use or attempt to use the officer's or employee's official position to:
- (iii) further substantially the officer's or employee's personal economic interest;
or
- (iv) secure special privileges for the officer or employee or for others; or knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:
- (v) would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's

public duties; or

- (vi) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

Does not apply to:

- (i) an occasional nonpecuniary gift having a value of less than \$50;
- (ii) an award publicly presented in recognition of public services;
- (iii) any bona fide loan made in the ordinary course of business; or
- (iv) a political campaign contribution.

B. Interest in business entity doing business with municipality – Disclosure (10-3-1307)

- (i) Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which ~~he~~ **they are** an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which ~~he~~ **they are** a member or by which ~~he~~ **they are** employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of ~~his~~ **their** interest in that business entity.
- (ii) The disclosure statement shall be entered in the minutes of the meeting.
- (iii) Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in the manner required by Sections 10-3-1305 and 10-3-1306.

C. Investment creating conflict of interest with duties – Disclosure (10-3-1308)

Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and ~~his~~ **their** public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 10-3-1306.

D. Penalties for violation -- Dismissal from employment or removal from office (10-3-1310)

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part, with the exception of UCA Sections 10-3-1306, 10-3-1307, 10-3-1308, and 10-3-1309, shall be dismissed from employment or removed from office and is guilty of:

- (i) a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
- (ii) a felony of the third degree if:
 - (a) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or

(b) the elected or appointed officer or municipal employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;

(iii) a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or

(iv) a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

No member of the Council shall participate in the discussion of an agenda item in which they have financial or personal interest as defined or regulated under the above provisions of the Utah Code.

4.2 Decorum.

Council members should avoid leaving their seats except during approved recesses of a public hearing/meeting. Members should avoid conversation that is not plainly audible to all present in the hearing/meeting room.

ARTICLE V - HEARINGS/MEETINGS, GENERALLY

5.1 Hearing/Meeting, Date, Time, and Location

The Council shall meet ~~at least~~ once a month. The Council hearings/meetings are scheduled for the ~~first and~~ third Wednesday of the month. ~~However, if no items are scheduled for a second hearing/meeting, no hearing/meeting is required.~~ The Council hearing/meeting begins at 6:00 p.m., Mountain Time at the Providence City offices, 164 North Gateway Drive, Providence, Utah, 84332, unless otherwise noticed.

5.2 Study Meetings

Study meetings of the Council may be held as needed and may be combined with other boards and/or commissions. The Council study meetings will be noticed in accordance with State Code, minutes will be taken and the study meetings will usually be held at the Providence City offices 164 North Gateway Drive, Providence, Utah, 84332, unless otherwise noticed.

5.3 Special (Emergency) Meeting

Special meetings to consider matters of an emergency or urgent matter may be ordered by the Mayor or any two members of the Council. An order of a special meeting is to be entered in the minutes of that meeting and, at a minimum; the order must provide at least three hours notice of the special meeting. A quorum must be present at every meeting.

5.4 Recess or Adjournment

Any ~~regular hearing/meeting or special~~ meeting may be recessed or adjourned from day to day, or to the time of any previously announced ~~regular hearing/meeting or special~~ meeting, and such recess or adjournment to a time and place certain may not require

additional public notice.

5.5 Cancellation

If no business is scheduled before the Council, or if it is apparent that a quorum of the Council will not be available, any hearing/meeting may be canceled by the Chair by giving notice to all members at the earliest time possible before the time set for such hearing/meeting.

5.6 Length of Hearings/Meetings

At 10:00 p.m. the Council will finish the item presently being considered, no additional items will be heard after that time unless there is a motion passed by the Council to continue the agenda. All items remaining to be heard will be forwarded to the next regular agenda for consideration.

5.7 Time Control

It is the duty of the Chair to expedite business. The Chair may, at any time, institute measures to control the time for debate on any issue. Care should be taken to insure fairness in the hearing process. Those speaking in support and opposed should have substantially equal time. The Chair may stop comment once he/she believes the issue has been adequately and fairly heard. A motion may be passed by the Council allowing for the continuance of comment. If the Council overrules the Mayor they may have an additional 15 minutes.

5.8 Representation at Hearing/Meeting

At the hearing/meeting, any person may appear or be represented by authorized agents or attorneys. Such agents or attorneys shall present competent evidence of the extent of their authorization, if requested by any member of the Council.

5.9 Agenda Items.

Any two members of the council can request that an item will be added to an upcoming council meeting agenda as long as adequate notice is given to the City Recorder in accordance with State Code. (Resolution 035-2017, 07/25/2019)

ARTICLE VI - PROCEDURES AT HEARING/MEETING

6.1 Order of Business

The Chair shall call the meeting to order. The Chair may call upon anyone present to lead in the Pledge of Allegiance to the Flag. The Chair may call upon a previously identified person for an "opening" of the meeting (see 6.2 Opening). The review of minutes and regularly scheduled agenda items shall be discussed (see 6.3 Public Hearing/Meeting Procedure).

6.2 Opening

The Council desires that a variety of individuals, community organizations, and churches have the opportunity to provide thoughts, readings, and invocations at Council meetings. This opening to the city's legislative process is to provide the following: (1) provide a

moment during which Council members and the audience reflect on the importance of the business before the Council; (2) promote an atmosphere of civility; (3) encourage lofty thought and high-mindedness; (4) recognize cultural diversity; and (5) foster sensitivity for and recognize the uniqueness of all segments of the community. The requirements below shall govern the “opening” during Council meetings.

- A. The opening shall be done on a volunteer basis at no cost to the city.
- B. The opening is intended to be nondenominational and non-proselytizing in character; however, the City will not dictate the form or content of any such presentation.
- C. Participation in the opening shall be open to all on a non-discriminatory basis.
- E. The Mayor will invite members of the audience, City staff and Council if anyone is interested in offering a thought or invocation. Anyone interested shall raise their hand to be recognized by the Chair.
- F. The opening should be short, not to exceed three minutes and should not be specifically related to any item on the agenda or specific city/political issue.
- G. Individuals or groups that violate this policy may be prohibited from participating in future openings.

6.3 Public Hearing Procedure.

- A. The Chair introduces the item. If called upon, staff may describe the nature of the item and present evidence or a staff report to the Council which may include recommended findings of fact, conclusions of law and a recommended decision.
- B. City staff, and/or the applicant, petitioner or authorized agent may be asked to outline the nature of the request and presents supporting evidence including pictures, graphics, or other audio/visual material. The Chair then opens public comment.
- C. Persons neutral, in opposition, or in support of the application or petition may provide testimony.
- D. The City staff, applicant, petitioner, or authorized agent may provide rebuttal.
- E. Closure of public comment and discussion by the Council.

NOTE: After closure of public comment, the Council may ask questions of staff or staff may comment. If questions raised during the Council’s discussion require an answer by an applicant or other persons present at the hearing/meeting, the hearing/meeting may be reopened for this additional information to be presented and an opportunity for rebuttal provided. Also, the Chair may open and close public comment without formal motions from the Council.

6.4 Conduct During Hearings/Meetings

Any member of the Council, the Legal Counsel to the Council, or the Council staff, upon recognition by the Chair, may direct any questions to the applicant, witnesses, or any person speaking from the audience, to bring out pertinent facts. The Chair may call for pertinent facts from the staff or make appropriate comments pertinent to the item. Council members and staff are encouraged not to argue with persons in the audience or with each other.

During the hearing/meeting, each side shall proceed without interruption by the other. All testimony, statements, and pleadings shall be addressed to the Council only. There shall be no conversation, questioning or arguing between someone addressing the Council and individuals in the audience.

ARTICLE VII - FINDINGS AND DECISIONS

7.1 Timing of Decisions

After conclusion of the public hearing/meeting on any application or petition, the Council shall review the facts, evidence and professional advice of staff to include the city attorney, city engineer, city manager or consultant before it in relation to findings required, and make a decision to approve, deny, table or continue.

7.2 Findings

If a majority of the Council concurs that the facts and evidence supports favorable findings upon an application or petition before it, or that such findings could be made if conditions and safeguards are established, the decision may be favorable to the applicant, provided that such conditions and safeguards as may be required for a favorable finding are specified in the decision. Such safeguards and requirements shall be binding upon the applicant or petitioner and her/his successor and interests.

If a majority of the Council concurs that the facts and evidence does not support a favorable action or recommendation by the Council, then findings may be specified in the decision outlining those problems or deficiencies in the application or petition which warrant such action.

If the findings of fact and conclusions of law recommended by staff do not accurately reflect the Council's decision, the Council may amend such findings and conclusions at the hearing/meeting or may continue the hearing/meeting to a date and time certain to allow for preparation of revised findings and conclusions by staff.

7.3 Form and Procedure of Decisions

All such decisions of the Council shall be made at a public hearing/meeting by motion, made and seconded, and by a voice vote. The motion may be in the form of findings of fact and may state the reason for the findings by the Council and a statement of any conditions or safeguards to be attached to the action. A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the municipality and in any other case at the request of any member of the

governing body by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken. (Utah Code 10-3-506)

7.4 Notification

Notice of the Council decision shall be given to the applicant or petitioner and to other interested parties who have requested such notice, by the city recorder as soon as reasonably possible after the decision is reached, but within ten (10) working days. Such notice shall be given on an approved form by the Council and may include a copy of the complete findings of fact and conclusions of law adopted by the Council in reaching its decision.

ARTICLE VIII - REQUEST TO WITHDRAW OR AMEND APPLICATIONS OR PETITIONS

8.1 Withdrawal

Upon written request from the applicant, petitioner, or authorized agent, an application or petition may be withdrawn before the Council makes a decision in the case, provided that the application or petition does not require Council action by Utah Code.

8.2 Amendment

Applicants, petitioners, or their authorized agents may amend applications or petitions in any lawful manner on written request delivered to the city recorder or her/his agent not less than fourteen (14) days prior to the scheduled public hearing/meeting to assure that the amendment is properly evaluated and addressed in the staff report. Amendments received less than fourteen (14) days before the public hearing/meeting may not be evaluated and made part of the staff report at the choosing of City staff. The staff shall orally report to the Council at the public hearing/meeting the nature of any amendments received less than fourteen (14) days before the hearing/meeting.

The Council shall determine whether the nature of the amendment is such as to require referral for reexamination by Legal Counsel or staff having made reports on the original application or petition. If such referral is found necessary, the Council may proceed with the hearing/meeting or may continue it to a time and place specified, but may not decide the case until the Council has received sufficient information and analysis to make a finding that the amendment would not create a substantial difference in the effect of the application or petition.

8.3 Deferrals and Continuances

On its own motion, or at the request of applicants, petitioners, or their authorized agents, the Council may defer the hearing/meeting of cases or provide for later continuance of cases on which hearings/meetings have begun. Such deferrals or continuance may be permitted only for good cause, stated in the motion, and, unless time and place is stated, shall require new public notice. An applicant may be allowed to request one continuance for good cause shown. If additional deferrals or continuances are at their request, new fees shall be paid by applicants or petitioners.

ARTICLE IX - AMENDING OR WAIVING RULES

9.1 Amending Bylaws

These Bylaws may be amended by a majority vote of the Council except where such amendment would be contrary to requirements or limitations set by Utah Code or Providence City Code. An amendment may be proposed at any regular hearing/meeting of the Council. Prior to the hearing/meeting at which the amendment is to be voted upon, members shall be sent a copy of such proposed changes.

9.2 Waiving or Suspending Rules

A rule of procedure may be suspended or waived at any hearing/meeting by unanimous vote of Council members present unless such rule is set by Utah Code or by the Providence City Code.

Resolution 02-2024

A RESOLUTION APPOINTING AN INTERIM JUDGE FOR THE PROVIDENCE CITY JUSTICE COURT

WHEREAS, the provisions of U.C.A. 78a-7-103 require that Justice Courts be recertified at the end of each four-year term; and

WHEREAS, Judge Matthew Funk gave his letter of resignation on January 8th, 2024; and

WHEREAS, Utah Code Ann. 78A-7-208 allows for the appointment of a temporary justice court judge.

WHEREAS, the members of the Providence City Council understand the need for the time being to appoint an interim judge to allow the city's justice court to continue to function, and

WHEREAS, the members of the Providence City Council have determined that it is in the best interests of Providence City to continue to provide for a Justice Court;

BE IT RESOLVED, by the Providence City Council that any Senior Justice Court Judge, or Justice Court Judge currently holding office within the First Judicial District or in an adjacent county, is appointed to serve as a Temporary Justice Court Judge and that the (Utah Code of Judicial Administration Rule 9-109(3)(G) Reassignment), Presiding Justice Court Judge shall assign any judge duly appointed pursuant to Utah Code section 78A-7-208 to serve as a Temporary Justice Court Judge to hear any particular case or serve in the Providence Justice Court.

BE IT FURTHER RESOLVED that the Providence City Council of Providence City, Utah hereby affirm their willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Providence City Justice Court with the interim judge until further orders or a more permanent solution can be found.

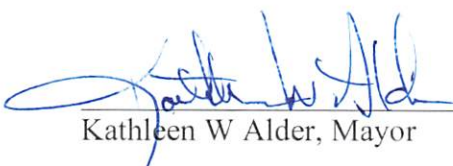
Passed by vote of the Providence City Council this 17th day of January 2024.

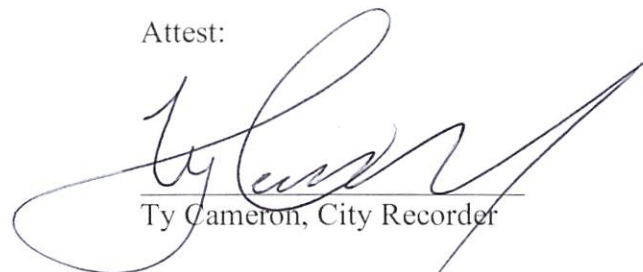
Council Vote:

Kirk, Carrie	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Kunz, David	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Sealy, Jeanell	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Speth, Brent	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Nebeker, Jeff	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

Attest:


Kathleen W Alder, Mayor


Ty Cameron, City Recorder

Resolution 03-2024

A RESOLUTION AMENDING THE PROVIDENCE CITY FEE SCHEDULE.

WHEREAS UCA § 10-7-717 Purpose of resolutions, states, “Unless otherwise required by law, the governing body may exercise all administrative powers by resolution . . .”

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses.

WHEREAS UCS 10-3-171 Unless otherwise required by law, the governing body may exercise all administrative powers by resolution including: establishing water and sewer rates; establishing charges for garbage collection and fees charged for municipal services...

WHEREAS, City Staff recommend the following changes per Exhibit A to the City’s Fee Schedule.

WHEREAS, in addition to the changes as show in Exhibit A, City Staff recommend the following:

- A 5% annual rate increase to Sewer, and;
- A 3% annual rate increase to Storm Water.

WHEREAS, City Council motioned and approved the following changes and additions, which have been implemented in the amended fee schedule:

- The overall effective date for the amended fee schedule will be March 1st, 2024.
- The optional recycling fee will not go into effect until the city takes on its own garbage/waste removal services.
- The non-fiber subscriber fee will not go into effect until initiated or further approval of the city council.
- The Failure to Conclude Burial Services by 4 pm Fee will be \$200/hr. prorated.

THEREFORE, be it resolved by the Providence City Council:


- The attached referenced and amended fee schedule shall be adopted and;
- This resolution shall become effective beginning March 1st, 2024, with the exception of;
 - The Optional Recycling fee will not go into effect until the city has established its own garbage/waste removal services; and;
 - The non-fiber subscriber fee will not go into effect until initiated by Council.

Passed by vote of the Providence City Council this 17th day of January 2024.


Council Vote:

Nebeker, Jeff	(X) Yes	() No	() Excused	() Abstained	() Absent
Kirk, Carrie	(X) Yes	() No	() Excused	() Abstained	() Absent
Kunz, David	(X) Yes	() No	() Excused	() Abstained	() Absent
Sealy, Jeanell	(X) Yes	() No	() Excused	() Abstained	() Absent
Speth, Brent	(X) Yes	() No	() Excused	() Abstained	() Absent

Providence City



Kathleen W Alder, Mayor



Ty Cameron, City Recorder

Providence City Fee Schedule

Animal Control	
Dog Registration:	
Unaltered	\$25
Altered	\$15
Late Fee after 1/31	\$10
Additional Tag	\$1
Daily Boarding Fee	As Billed
Kennel License	\$150

Business Licenses	
Home Business	\$25
Commercial Business	\$75
Late Fees:	
After 01/31	50% Increase
After 02/28	Doubles
After 03/31	New App. w/fee and all late fees
Alcohol:	
Class A – Beer	\$250
Class B – Limited Restaurant	\$500
Class C – Full Svc Restaurant	\$750
Solicitors, etc.:	
Per Person/ Annual	\$100
Peddlers Transient	\$50

Cemetery / Perpetual Care	
*Burial Space	\$800
Internment Fees:	
Weekday/ Saturday	\$625 / \$1,200
Infant Weekday/Saturday	\$300 / \$800
**Cremation Weekday/Sat.	\$300 / \$800
Certificate Transfer	\$75
Failure to Conclude Burial Services by 4PM per 7-4-5(H)	\$100 \$200/hr.

Upright Headstone Install	\$100
Cemetery / Perpetual Care Continued	
Flat Headstone Install	\$25
Fine for Placing Unapproved Headstone	\$500
*Limit of 4 spaces per household.	
**Two cremations may be placed in one space.	

Connection Fees	
Sewer System Inspection	\$150 \$175
Utilities turned on/off	\$25 \$30
Meter Relocation	\$500
Water System (varies by size; as billed on recent invoice plus labor)	1" meter, approx. \$450 \$500
*Water Share(s):	
Blacksmith Fork (BSF)	\$1,000
Spring Creek (SCWC)	\$3,000
*City will exchange 3 BSF for 1 SCWC.	

Copies/Page and Misc.	
GRAMA / research request	\$16 \$18/hour
Records (minutes)	\$0.50
8 ½ x 11 b&w /color	\$0.10 / \$0.75
8 ½ x 14 b&w / color	\$0.15 / \$ 0.75
11 x 17	\$0.25
Returned Payment Fee (NSF)	\$20 \$25.00

Deposits and Fees	
*Utility Deposit	\$200 (2x mo. base)
**Encroachment / Right of Way Permit	\$1,500
Deposit	\$750

Fee	\$750
-----	-------

Deposits and Fees Continued	
Late Fee (After 5 working days)	\$100/day
*Deposit may be refunded.	
**Asphalt Maintenance will be deducted from deposit.	

Equipment/Hour	
Billed at the higher of Renegade or Wheeler Rental Equipment rates.	

Filing Fees (P&Z and Adjustment)	
Commercial Interior Finish	\$25
Remodel (change to exterior envelope)	\$50
Detached Accessory Bldg.	\$50
Zoning Review	\$100
Lg. Multi-Family / Commercial Facility Review	\$600
Appeal / Variance	\$1,000
Code Amendment	\$500
Conditional Use	\$200
Lot line / Boundary Adjustment	\$250
General Plan Amendment	\$1,000
Rezone	\$1,000
Right-of-Way Vacation	\$500
Annexation	\$150
Subdivision Pre-application Review (Optional)	\$300
Preliminary Plat	\$1,200
Final Plat & Construction Drawings	\$1,500

Providence City Fee Schedule

Inspections and Reviews	
Concept Plat	As billed by professional firm
Preliminary Plat	
Final Plat	
Construction Drawings	
On Site Inspection	
Inspections and Reviews Continued	
Each additional review	\$200

Monthly Utility	
Rates are for 1" meter, larger meters will be more	
Water (up to 10k gallons)	\$21.00
Sewer	\$42.89 \$45.00
Garbage	\$15.61 \$16.50
Additional Container	\$8.25
Recycling (Optional)	\$3.00 \$6.00
Storm Water*	\$7.25 \$7.50
*Amt. of increase to be tracked for projects.	
E-911	\$3.00 \$4.00
Cache County Compost	\$1.00 \$.50
Green Waste (optional)	\$5.00 \$8.00
Fiber Utility (non-subscriber)	\$10.00
Excess Water	
10,001 – 50,000	\$.85/1,000 gallon
50,001 – 100,000	\$1.50/1,000 gallon
100,001 – 200,000**	\$1.75/1,000 gallon
200,001 and up**	\$2.00/1,000 gallon
**Amt. of increase used for conservation efforts.	

Parks and Recreation	
Special Event Fees	\$200
Zollinger Pavilion*	\$25

Von's Park, Res. M-Th*	\$65
Von's Park, Res. F-Sun*	\$120
*Non-refundable portion	\$25
Baseball	Varies by age
Softball	Varies by age
Tennis	\$20
Fun in the Sun	\$45 / \$60
Kickball	\$25
Fields / Games:	
Soccer	Comp. \$20/game
Soccer Field Reservations	\$100/per field
Baseball Diamonds Fld. Prep	\$90
Lights	\$10
Room Rental	
*Council Chambers	\$25 / 2 hrs.
*No rentals on Mondays & Wednesdays.	



2024 CITY CALENDAR

JANUARY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY

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MARCH

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31						

APRIL

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MAY

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JUNE

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23	24	25	26	27	28	29
30						

JULY

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AUGUST

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SEPTEMBER

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29	30					

OCTOBER

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NOVEMBER

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DECEMBER

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29	30	31				

Public Meetings



Historic Preservation
Commission



Planning Commission



City Council

City Closures



Paid Holiday



City Office Prep Day



Cemetery Service

Events & Trainings



City Celebration



ULCT Conference



Utah Legislative Session

2024 CITY CALENDAR

HISTORIC PRESERVATION COMMISSION
<i>*meetings only held as needed*</i>
January 3
February 7
March 6
April 3
May 1
June 5
July 3
August 7
September 4
October 2
November 6
December 4

PLANNING COMMISSION
<i>*second meetings held as needed*</i>
January 10
January 24
February 14
February 28
March 13
March 27
April 10
April 24
May 8
May 22
June 12
July 10
August 14
August 28
September 11
September 25
October 9
October 23
November 13
December 11

CITY COUNCIL
January 17
February 21
March 20
April 17
May 15
June 26
July 17
August 21
September 18
October 16
November 20
December 18

PAID HOLIDAYS
January 1
<i>New Year's Day</i>
January 15
<i>Martin Luther King Day</i>
February 19
<i>Presidents' Day</i>
May 27
<i>Memorial Day</i>
June 19
<i>Juneteenth</i>
July 4
<i>Independence Day</i>
July 24
<i>Pioneer Day</i>
September 2
<i>Labor Day</i>
November 11
<i>Veterans Day</i>
November 28-29
<i>Thanksgiving</i>
December 24-25
<i>Christmas</i>

CITY EVENTS
August 12-17
<i>Sauerkraut Days</i>
October 12
<i>Car Show</i>
December 5
<i>Tree Lighting</i>

CEMETERY SERVICE CLOSURE DATES
January 1
January 15
February 19
May 23-28
June 19
July 4
July 24
September 2
November 11
November 28-29
December 2
December 24-25

Click or scan the QR code
for all meeting information,
agendas and minutes



PCC 1-3-2 Definitions

Commercial garbage refers to garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.

~~Community-Green~~ waste means lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.

Container or *regulation container* means a type of garbage or trash container as provided by the City or it's contracted garbage collector and having a tightfitting lid ~~or properly and sufficiently treated weather-resistant bag manufactured specifically for use in garbage and refuse collection.~~

Garbage means waste from the preparation, cooking or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked and consumed.

Refuse means:

Putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ~~ashes~~, street cleanings, dead animals, and solid market and industrial wastes; or

All waste matter, except garbage, attending, or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. The term "refuse" shall not include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.

PCC Chapter 4-3 Garbage, ~~and Refuse~~ Waste and Recycle

4-3-1 (Reserved for Future Use) Garbage, Waste and Recycle Department Created

4-3-2 Definitions

4-3-3 Collection and Pickup of Garbage

4-3-4 Service Charges

4-3-5 Regulations

4-3-6 Vehicles and Equipment

4-3-7 Inspections

4-3-8 Violations

4-3-9 Hearings

4-3-10 Emergency Provisions

State law reference – Solid and Hazardous Waste Act, UCA 1953 § 19-6-101 et seq.

4-3-1 (Reserved for Future Use) Garbage, Waste and Recycle Department Created.

~~The garbage~~Garbage, waste-Waste and recycle-Recycle department of the city is hereby created and established as an enterprise fund. It shall administer the operations and maintenance of the garbage, waster, and recycle services of the city.

4-3-2 Definitions.

Definitions for this chapter are found in Chapter 1-3 Definitions and Construction of this Code.

4-3-3 Collection and Pickup of Garbage

- A. Permit required. It shall be unlawful for any person who does not possess a valid ~~permit from the county service area, in addition to any~~ business license required by the city, to engage in the business of refuse collection or refuse disposal for compensation within the City. ~~The county service area shall issue~~ For the purposes of this chapter, the business license shall also act as the permits for such applicants, provided that such ~~permits~~ licenses shall be limited to persons having proper equipment and personnel to collect

and dispose of refuse in accordance with the provisions of this chapter and that no permit shall be required of any agency acting under contract within the City.

B. Collection.

1. The city, or its agent, shall collect, remove and dispose of all residential and commercial garbage, the removal of which is not otherwise provided for by the establishment or institution as herein provided. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as ~~determined by the city council may from time to time establish by regulation.~~

2. Except as otherwise expressly permitted by this chapter, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the city, except by the city or its agent, and except by authorized persons hauling commercial garbage or refuse as hereinafter provided. It is hereby declared to be unlawful for any person, except as permitted in this chapter, to haul or remove garbage or refuse in the city.

3. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage themselves may employ the services of authorized contractors to remove commercial garbage. ~~Authorized garbage haulers must apply for and receive permission to do so from the city recorder.~~ Haulage of refuse must be done in the manner, and during such times and in such vehicles as may be approved for such purposes ~~as by the city council may from time to time by regulation provide.~~

4. Nothing contained in this subsection shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the city in vehicles and containers approved by a sanitary inspector or such other personnel of the city as the city ~~council~~ may authorize.

5. Nothing in this subsection shall be construed as eliminating the charge made for garbage service.

C. Garbage to be placed at pickup point. All garbage and refuse subject to garbage collection by the city ~~council~~ shall be placed at a pickup point at or near the premises ~~and at such times as~~ designated from time to time by the city. ~~regulations adopted by the city council and at such times as shall be designated by regulations of the city council.~~

D. Garbage not set out prior to collection. Until otherwise provided by regulations, garbage and refuse must not be set out upon the ~~street right-of-way~~ for collection prior to 48 hours before collection and must be set out on the day of collection before the hour of collection designated by ~~regulations of the city council.~~

E. Removal of receptacles. All empty receptacles must be removed from the ~~street right-of-way~~ as soon as practicable after being emptied, and in every case, must be removed from the ~~street right-of-way~~ within 24 hours after they are emptied. ~~Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.~~

4-3-3 Service Charges

A. Established.

Garbage, waste and recycle utility. A garbage, waste and recycle utility is an equitable and efficient method of managing garbage, waste and recycle collection and disposal services throughout the city.

B. Garbage, waste and recycle utility fee.

A garbage, waste and recycle utility fee offers necessary financial management options that will assist the city to provide and improve these services. Therefore, a garbage, waste and recycle fee system is hereby created and established as part of the garbage, waste and removal department. It will be utilized in the establishment and setting of fees, rates, schedules and billing.

1. The service ~~charge~~ rates, penalty fee for delinquency in payment, inspection fee and other charges incidental for garbage, waste and recycle ~~collection services~~ shall be ~~established fixed from time to time~~ by resolution ~~from time to time enacted~~ by the city council and shall be in an amount consistent with the amounts set forth in the contract between the city and the county service area.

2. The city council may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for garbage, waste and recycle services and all other rules necessary for the management and control of the utility.
- C. *Applicability.* Charges shall apply to all residences and business establishments, whether or not they have also elected to haul their own garbage or employ the services of authorized garbage haulers.
- D. *Combined billing; ~~exception~~ exemptions, surcharges, and credits.*
1. The garbage service charges above-imposed by this section shall be added to the ~~charge made for water furnished through the water system of the city~~ **monthly utility billing**, and shall be billed and collected in the same manner as water service charges are billed and collected.
 2. ~~In the event the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible in the opinion of the city council, the garbage service charges may be collected with such frequency and in such manner as the city council shall by regulation provide.~~ The city council may establish exemptions, surcharges and credits to the garbage, waste and recycle utility fee by resolution.
 3. *Special rates.* The city council may from time to time fix by agreement or resolution special rates and conditions for users making use of the garbage, waste and recycle services under exceptional circumstances, upon such terms and conditions as they may deem proper.
 4. *Administrative policies.* The city staff may adopt policies, consistent with this chapter and any ordinances and/or resolutions adopted by the city council, to assist in the application, administration and interpretation of this chapter and any ordinance and/or resolution related to the garbage, waste and recycle services.
- E. *Statement of charges; delinquency.*
1. *Statement.* The garbage, waste and recycling utility fee shall be included on the city's regular monthly utility billing. The city shall furnish to each user, electronically, or mail to, or leave at the user's place of residence or usual place of business, a written or printed statement stating thereon the amount of garbage, waste and recycling service charges assessed against the user once each month or at such other regular interval as the city council shall direct. The statement shall specify the amount of the bill for the garbage, waste and recycling service and the place of payment and date due.
 2. *Failure to pay.* If any person fails to pay the garbage, waste and recycling charges within 30 days of the due date, the city shall mail the customer notice in writing of intent to ~~may~~ disconnect the water service to the customer unless the customer pays the bill in full within seven days from the date of the notice.
 3. *Payment of delinquent charges.* If the water service is thereafter discontinued for failure to make garbage, waste and recycling utility charges, then before the water service to the premises shall again be provided, all delinquent garbage, waste and recycling sewer charges must have been paid to the city or arrangements made for their payment in a manner satisfactory to the city.
 4. *Additional charges.* In the event water is turned off for nonpayment of garbage, waste and recycling charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the city council may have established by resolution or ordinance. Until such resolution has been adopted, there shall be added an extra charge in the amount established by resolution for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills.
 5. *Collection enforcement.* The city is hereby authorized and empowered to take all action necessary to enforce collection, including, but not limited to, the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for all of the amount of the delinquent fees and services charges and all costs of collection, including court costs and reasonable attorney fees.

4-3-4 Regulations

- A. *No accumulation of garbage.* It shall be unlawful for any person to accumulate garbage ~~or~~ refuse or cause garbage or refuse to be deposited upon any street or upon any premises in the city without express permission from the ~~nuisance code compliance~~ officer. The ~~nuisance code compliance~~ officer may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health or permit the depositing of ashes and other dry material for filling purposes at such places as the ~~nuisance code compliance~~ officer may designate and under such restrictions as the city ~~council~~ may designate and under such restrictions as the city ~~council~~ may ~~by regulation~~ impose. Additionally, the ~~nuisance code compliance~~ officer may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.
- B. *Closing of containers required.* All garbage and market waste must be placed in rainproof and fly proof receptacles of the type herein required, and the receptacle shall be tightly closed in such manner as to prevent offensive odors or flies.
- C. *Community waste.*
1. Community waste may be disposed of by residents and business establishments in vehicles provided by them, subject to regulation by the city ~~council~~ as to the places of disposal and as to the type of vehicle used to avoid spillage upon the public ways of the city, hazards to safety and the prevention of nuisances.
 2. The city ~~council~~ from time to time may provide for the collection and disposal of such types of community waste as it may decide to collect and haul in connection with its regular garbage, waste collection and disposal service. In the event community waste disposal service should require a charge to be made by the city, the determination of the charge will be made by negotiation with the residents or business enterprises and the residents or business enterprises will be given an opportunity to choose from among services offered by persons other than the city.
- D. *Dumping refuse prohibited.* It shall be unlawful for any person to place, deposit, or dump garbage, ashes, market waste, proper boxes, cartons, trade waste, manure or night soil, or any other refuse upon any lot within the city whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under the owner's, tenant's, occupant's or lessor's jurisdiction and control.
- E. *Limitations upon dumping.* Dumping waste and garbage shall be permitted only in such places as are designated by the city ~~council~~. Dumping shall be subject to such rules and regulations as may be formulated by the city ~~council~~.
- F. *Regulation by city council.* The city council may adopt such regulations as in its opinion are necessary to implement this chapter and its objectives.

4-3-5 Vehicles and Equipment

- A. *Public or private vehicles.* All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies or suitable provision for covering the body. Provision and use of tarpaulin or canvas cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the county service area.
- B. *Collection and disposal vehicles.* Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair.

4-3-6 Inspections

Any authorized employee or agent of the city, after providing identification, shall have the power to enter at reasonable times, upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this ~~chapter and where necessary, shall obtain a search warrant from a court having jurisdiction.~~

4-3-7 Violations

~~A. Notice. Whenever the city has determined that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, notice of such alleged violation shall be given to the person responsible therefor, as hereinafter provided. Such notice shall:~~

- ~~1. Be put into writing;~~
- ~~2. Include a statement of the reasons why it is being issued;~~
- ~~3. Allow a reasonable time for the performance of any act it requires;~~
- ~~4. A. Be served upon the holder of a permit issued under this chapter or upon the owner or agent or the occupant of any premises within the city, provided that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of the state for commencement of civil actions.~~
- ~~B. Contents. Such notice may:~~
 - ~~1. Contain an outline of remedial action which, if taken, will affect compliance with the provisions of this chapter.~~
 - ~~2. State that unless conditions or practices described in such notice which violate this chapter are corrected within the reasonable time specified in such notice, the violator may be punished in accordance with the provisions of this chapter, or a permit which has been issued pursuant to this chapter may be suspended or revoked.~~

4-3-8 Hearings Compliance; penalty

~~A. County City service area. Compliance; penalty. Any person who does not comply with the regulations and requirements of this chapter shall be guilty of a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1.~~

- ~~1. Request; notice; commencement. Any person who is affected by any notice issued in connection with the enforcement of any provision of this chapter may request, and shall be granted, a hearing on the matter before the county city service area or its designee; provided, that such person shall file, in the office of the county city service area, a written request for such hearing within ten days after the date the notice was served. Upon receipt of such request, the county city service area shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten days after the day on which the request was filed; provided, that upon application of the petitioner, the county city service area may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.~~
- ~~2. Findings; order. After such hearing, the county city service area shall sustain, modify, or withdraw the notice, depending upon its findings based on such hearing as to whether or not the provisions of this chapter and of the regulations adopted pursuant thereto have been complied with. If the county city service area sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written request for a hearing has not been filed in the office of the county city service area within ten days after such notice was served. In the case of any notice which states that a permit required by this chapter may be suspended or revoked, the county city service area may suspend or revoke such permit if an order is issued and corrective action has not been taken within the time specified in the notice.~~
- ~~3. Records. The proceedings at such hearing, including the findings and decision of the county city service area, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the county city service area. Such record shall include, also, a copy of every notice or order issued in connection with the matter.~~

~~B. City council.~~

- ~~1. Notice. If the corrective action ordered by the county city service area under this chapter has not been taken within five days after such decision or order thereof, the county city service area shall hear the matter. Notice of the hearing shall be given by personal service or by leaving a copy at the residence or place of business of the person not complying, with anyone at such address who~~

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is over the age of 14 years and by mailing a copy of the notice to the last known address of the person not complying with the order.

2. ~~Decision. At the time set for hearing by the county city service area, the city council shall hear the matter and receive evidence and determine what corrective action is required, if any. The decision of the city council shall be in writing and a copy of mailed to the person not complying.~~

3. ~~Compliance; penalty. Any person who does not comply with the decision of the city council shall be guilty of a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1. The city council may order the county city service area to take the corrective action required if the person who does not comply fails to do so and a court action shall be commenced against such person for any costs incurred by the city.~~

4-3-9 Emergency Provisions

Whenever the county city service area finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health it may, without notice or hearing, issue a ~~written~~ order reciting the existence of such an emergency and the conditions violating this chapter which require corrective action to remove such health hazard. If such corrective action is not taken, the county city service area may take the action, including the abatement of any nuisance as may be necessary to protect the public health.

Notwithstanding other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, ~~but upon petition to the city council, shall be afforded a hearing as soon as possible, but in any case, not later than three days after the petition was filed. After such hearing, depending upon the findings of the city council as to whether or not the provisions of this chapter and of the regulations adopted pursuant hereto have been complied with, the city council may continue such order in effect, modify it or revoke it.~~

1 PCC 1-3-2 Definitions

2 Additions related to the fiber system.

3
4 *Access* means to or use of the fiber system in the form of either broadband transport service.

5
6 *Conduit* means a tube, duct, structure, boxes or other device designed for enclosing telecommunication wires or
7 cables.

8
9 *Customer* means a retail or wholesale user of the fiber-optic system.

10
11 *Demarcation point* means the point of connection on an Optical Network Terminal or Network Interface Device at
12 which the municipal fiber-optic system ends, and a point of interconnection is established for the customer's use

13
14 *Facilities or infrastructure* means wires, cables, conduit, switches, transmission equipment or other equipment for
15 use in transmitting or processing telecommunications services or for providing support or connection to such
16 equipment

17
18 *Fiber-optic cable* means a high-speed data transmission medium. It contains tiny glass or plastic filaments that
19 carry light beams. Digital data is transmitted through the cable via rapid pulses of light.

20
21 *Internet service provider (ISP)* means a retail broadband service provider.

22
23 *Local area network* means a computer network that interconnects computers in a limited area such as a building or
24 a utility facility.

25
26 *Metropolitan area network* means the city-wide broadband digital network comprised of municipal fiber-optic
27 system facilities that are owned by the city interconnects a number of local area networks owner by the city, public
28 agencies and customers.

29
30 *Municipal fiber-optic system* means the city owned fiber-optic system, including all fiber, facilities, equipment, and
31 appurtenances.

32
33 *Point of delivery* means the physical point at which the metropolitan network ends, and the public agency's, the
34 city's, or customer's local network begins.

35
36 *Service* means any future or current, retail or customer broadband service which may be transported utilizing the
37 fiber-optic system.

38
39 *Subscriber* means a current or potential provider customer.

40
41 *Transport* means broadband transport service consisting of Ethernet services as supported by the municipal fiber-
42 optic system.

1 CHAPTER 7-12 MUNICIPAL FIBER-OPTIC INTERNET SYSTEM USE AND SERVICE

2
3 7-12-1 Intent and Purpose

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15 7-12-13 Tampering with Fiber System Prohibited

16 7-12-14 Protection of the Customer's Equipment

17 7-12-15 Theft of Access or Use

18
19 7-12-1 Intent and Purpose

- 20 A. It is the intent and purpose of this chapter to provide a municipal fiber-optic internet system (fiber
21 system) throughout the city which will:

- 22 1. Operate as a utility.
23 2. Provide broadband access to meet the needs of residents, businesses, city departments, and
24 public agencies within the city.
25 3. Allow the city to manage and regulate competing demands for the use of the public right-of-way
26 by minimizing the installation of duplicative communications lines and facilities on, over or under
27 the public right-of-way.
28 4. Foster competition among retail internet service providers (ISP) by providing open access to the
29 city's municipal fiber system.
30 5. Encourage economic development by attracting businesses that require large amount of
31 bandwidth for their operations.
32 6. Provide for higher amount of bandwidth in residential homes.
33

34 7-12-2 Department Created and Enterprise Fund Established.

35 The Municipal Fiber-Optic System Department is hereby created and established as an enterprise fund to
36 administer the operations and maintenance of the fiber system.

- 37 A. The Municipal Fiber-Optic System Department shall perform the functions and have the authority, as set
38 forth in this chapter, for managing, regulating, and controlling the city's metropolitan area network,
39 including, but not limited to, the power and authority:

- 40 1. To operate, manage, and maintain fiber system facilities owned by the city in the right-of-way to
41 the point of delivery to public agencies, the city, telecommunications service companies, and
42 customers within the city, either as a public-private partnership or solely operated by the city;
43 2. To make such rules and regulations as are necessary for the operation of the fiber system both
44 inside and outside the city limits.

- 45 B. All fiber system facilities, equipment, property, and property rights and interests in the right-of-way to the
46 point of delivery, owned or acquired by the city for the purpose of the institutional network, insomuch as
47 they relate to or concern the fiber system, are hereby transferred to the fiber system utility.

- 48 C. Any future transfer or sale of the fiber system utility shall be conditioned upon continued ownership in
49 perpetuity by the city of any joint us primary of secondary conduit.

- 50 D. Rates and charges for the use of the city's fiber system by public agencies, the city, and customers shall be
51 set at a level to ensure full cost recovery, including not less than the city's costs of operation and
52 maintenance of the fiber system, future capital needs, and fund resiliency.

- 53 E. The city staff may adopt policies, consistent with this chapter and any ordinances and/or resolutions
54 adopted by the city council, to assist in the application, administration and interpretation of this chapter
55 and any ordinance and/or resolution related to the fiber system.
56

57 7-12-3. Definitions for this chapter are found in Chapter 1-3 Definitions and Construction of this Code.
58

59 7-12-4. Applicability

60 The provisions of this chapter shall apply only to the delivery of access to and related services for the city owned
61 fiber system. Nothing herein shall be construed or deemed to regulate the delivery of communications or data
62 services over or across lines, facilities, or equipment owned by a private communications provider, or which may
63 be in the public right of way pursuant to a franchise, lease, or other license or privilege granted by the city.
64

65 7-12-5. No Obligation to Provide Service.

66 The city shall have no obligation to provide access to any provider or subscriber. The city reserves the right to limit
67 or refuse access at its sole discretion, provided access shall not be limited or denied in a manner that is
68 inconsistent with applicable federal, state or local law or regulations.
69

70 7-12-6 Transfer of Rights Prohibited

71 All rights to access and any rights or privileges arising under the provisions of this chapter shall not be transferred
72 to any person or entity without the express written approval of the city.
73

74 7-12-7 Service Charges, Billing and Delinquency.

75 A. Service rates and fees.

- 76 1. The service rates, penalty fee for delinquency in payment, inspection fee and other charges
77 incidental for fiber services shall be fixed from time to time by resolution enacted by the city
78 council.
79 2. The city council may from time to time promulgate rules for levying, billing, guaranteeing and
80 collecting charges for fiber services and all other rules necessary for the management and control
81 of the utility.
82 3. The city council may establish exemptions, surcharges and credits to the fiber utility fee by
83 resolution.
84 4. The city council may from time to time fix by resolution special rates and conditions for users
85 making use of the fiber system under exceptional circumstances, upon such terms and conditions
86 as they may deem proper.

87 B. Billing.

- 88 1. The fiber system service charges imposed by this chapter shall be added to the monthly utility
89 billing.
90 2. The city shall furnish to each customer, electronically, or by mail , or leave at the user's place of
91 residence or usual place of business, a written or printed statement listing, the amount of fiber
92 service charges assessed, the place of payment and date due, once each month or at such other
93 regular interval as the city council shall direct.
94 3. If any customer fails to pay the fiber system charges within 30 days of the due date, the city may
95 disconnect the fiber service.

96 C. Delinquency

- 97 1. If the fiber service is disconnected for nonpayment of charges, before the service may be
98 resumed, all delinquent fiber system charges must be paid to the city or arrangements made for
99 their payment in a manner satisfactory to the city.
100 2. In the event the fiber service is disconnected for nonpayment, before the fiber service can be
101 reconnected, the customer shall pay, in addition to all delinquent charges, such extra charge for
102 turning the fiber service off and on as the city council may have established by resolution or
103 ordinance.

- 104 a. Furthermore, in addition to such payments and penalties, a delinquent customer may
105 be required to make and file a new application and deposit if the previous deposit has
106 theretofore been applied to the payment of delinquent bills.
- 107 3. The city is hereby authorized and empowered to take all action necessary to enforce collection,
108 including, but not limited to, the commencement of legal proceedings in a court of proper
109 jurisdiction seeking judgement for all of the amount of the delinquent fees and service charges
110 and all costs of collection, including court costs and reasonable attorney fees.

111
112 7-12-8 Limitations

- 113 A. Fiber system access may be supplied under a given rate schedule provided that the fiber system can meet
114 the requirements of the rate schedule applicable thereto. The city shall not be obligated to construct
115 extensions of install additional facilities necessary to meet a customer's needs, except as explicitly
116 authorized by the city.
- 117 B. Nothing herein shall be construed or deemed to prevent the city from negotiating separate contracts with
118 any customer solely for the purpose of obtaining assistance in constructing or installing additional
119 infrastructure for the benefit of said customer.

120
121 7-12-9 Rights of Way

- 122 A. At the city's discretion in order to receive access, transport, or infrastructure services, the city may
123 require the customer and/or the land owner's dedication or the conveyance of a utility easement in order
124 to facilitate the installation, operation, and maintenance of the city's fiber system, over, across and upon
125 property owned or controlled by the customer/land owner.
- 126 B. Such utility easement may also be used for the purpose of connecting and providing access to other
127 customers of the city. Such utility easement shall permit access thereto by authorized representatives of
128 the city both for initial installation and for maintenance and/or repairs thereafter at all reasonable hours
129 or at any time in any emergency.

130
131 7-12-10 Liability for Interruptions

- 132 A. The city shall not be liable for any loss, injury, or damage of any kind, including but not limited to
133 consequential, special, and punitive damages, resulting from the interruption, reduction, loss or
134 restoration of access from any cause, including without limitation any loss by fire, flood, accident,
135 casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy or failure or
136 inadequacy of the fiber system.
- 137 B. The city disclaims any express or implied warranty of merchantability or fitness for a particular purpose
138 and the delivery of access to any customer shall not be construed as or deemed to be the delivery of
139 goods under the Utah Uniform Commercial Code.
- 140 C. By acceptance of transport or infrastructure, the customer agrees to, and shall be deemed to, waive all
141 claims for damage or loss to the customer's lines, facilities or communications equipment caused by any
142 act or commission of the city, however, nothing herein shall be deemed or construed as a waiver of any
143 claim for damage or liability arising out of the gross negligence or malicious act of the city, or its agents.

144
145 7-12-11 Shut-Down for Repairs

146 For the purpose of making necessary repairs, upgrades, or changes to the fiber system, or to avoid damage to
147 property or to persons, the city may without prior notice to the customer suspend access for such periods as may
148 be reasonable necessary to make such repairs, upgrades or changes and the city shall not be liable for damage of
149 any kind, direct or indirect, because of such discontinuance of access.

150
151 7-12-12 Interference with the Fiber System

- 152 A. The city may refuse to supply access where there is a possibility that the delivery of such may seriously
153 impair or disrupt any other customers, or which may disrupt the operation of the fiber system.
- 154 B. The city may discontinue or disconnect access for a customer if the customer, by their use of the fiber
155 system, impairs any other customer's use of the fiber system.

- 156 C. The city may, without prior notice, suspend or disconnect any customer using the fiber system for the
157 purposes of delivering any virus, spam, spyware, denial of service attacks, or any other illegal or malicious
158 purpose which has the effect of or is intended to impair or impede the operation of the fiber system, the
159 internet, or any public or private computer or computer network connected thereto or for the purpose of
160 obtaining illegal or unauthorized access to other computers or networks connected to the fiber system.
161

162 7-12-13 Tampering with Fiber System Prohibited

- 163 A. No person shall connect to, adjust, tamper with or make any alteration or addition to the fiber system
164 owner by the city, without having first obtained written permission from the city.
165 B. Any person who causes damage to the fiber system owned by the city shall be liable to the city for any
166 damage proximately cause by such unauthorized connection, adjustment, tampering, alteration or
167 addition to such fiber system.
168

169 7-12-14 Protection of the Customer's Equipment

170 The customer is solely responsible for the selection, installation and maintenance of all equipment and wiring on
171 the customer side of the demarcation point. The customer shall install and maintain suitable protective devised
172 and equipment to protect life and property from harm or injury and the city assumes no duty to warn or otherwise
173 assist the customer in the selection or use of such protective devices.
174

175 7-12-15 Theft of Access or Use

176 It shall be unlawful for any person to make any connection to or install or construct any facility or equipment with
177 the specific intent of obtaining access from or making use of the fiber system, without paying for such access or
178 without paying the fees and charges established by the provisions set forth in this chapter.
179

180 7-12-16 Violations and Penalties

181 Any violation of the provisions of this chapter shall be deemed a Class B misdemeanor and shall be subject to the
182 penalties prescribed for such violations under Chapter 1-4 of this code.