

PROVIDENCE CITY COUNCIL MEETING MINUTES

Wednesday January 17th, 2024, 6:00 PM

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

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

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

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

Opening Ceremony:

Call to Order: Mayor Alder

Roll Call of City Council Members: Mayor Alder, Council Members, Kunz, Kirk, Sealy, Speth & Nebeker.

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

Pledge of Allegiance: Mayor Alder

Opening Remarks/Prayer: Council Member Sealy

3 MIN. 15 SEC.

Swearing in of new and reelected Council Members. The Providence City Mayor will swear in new Council Member David Kunz and reelected Council Members Carrie Kirk and Brent Speth.

- Mayor Alder took the podium and swore in re-elected Council Members Carrie Kirk & Brent Speth and new Council Member David Kunz.

4 MIN. 55 SEC.

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

Council Member Sealy:

- Attending the LPC (Legislative Policy Committee) meetings, which started yesterday, and is following the proposed new laws that are being discussed. Informed that last year over 500 bills were enacted.
- Notified residents that this year is an election year for our Senators and Representatives and encouraged people to get informed and involved.
- Continues to attend Library Board Meeting and the Blacksmith Fork Irrigation Company meetings which is getting ready to do their annual meeting in February.

Council Member Speth:

- Will be attending the Blacksmith Fork Irrigation Company meetings which was Council Member Sealy's assignment but will now be his. Will be attending the share holders meeting in February.
- There is a new emergency preparedness program called Whole Community Preparedness Coalition, which unfortunately also meets during city council meetings. This program entails

coordinated meetings with, government, home, church, schools, businesses etc. to help understand what each organization needs and can provide when it comes to emergency preparedness.

- CERT training starts back up in March and goes 6-8 weeks, Tuesdays, and Thursdays. Anyone interested can reach out to him and he can help them get set up.
- HAM Radio licensing day will be offered January 27th at the Cache County Sheriffs Complex.
- Regarding the recent cold temperatures there is a warming center that is being provided by the St. John's Episcopal Church at 80 E 100 N in Logan. Volunteers are welcome.
- Also following the State Legislature and what new bills may be passed.

Council Member Nebeker:

- Attended the Mosquito abatement district meeting, which was his last as he will no longer be assigned to attend as part of his City Council assignments. Noted that per last years numbers there were over 8,000 more mosquitoes than the previous year which could be because of all the snow and water we got last year. Commented on the new drones that they have that has helped in spray in hard to reach areas.

Council Member Kirk:

- Continues to work with the Youth Council and asked staff if they could put on the new city events and meeting calendar the Easter Egg Hunt which will take place on March 30th.
- Looking for a day in the next month or so for the Youth Council to attend that State Legislature on Capitol Hill. Mayor Alder commented that she is meeting Senator Wilson's intern next week to go over the schedule of events and could possibly lock down the date of February 16th.

Council Member Kunz:

- Has been meeting with Ryan Snow bi-weekly learning the in's and outs of what City Council Members do.
- Attended the ULCT new Council Member training. Is excited to be here and start working with the city and Council.

Mayor Alder:

- Is serving on a lot of committees, most don't directly benefit the city, but it does allow her to meet a lot of decision makers and leaders who's choices do affect the city. They have been very positive about our city and the things we are working on.
- Congressman Moore's new director will be in town next week meeting with local leaders and commented that she will be out of town and if there was a Council Member who could attend in her stead. Council Member Sealy volunteered to attend on her behalf.
- The Council talked about applying for grant money for the city's lift station and possible future grant money for a potential sewer treatment plant.
- Will be testifying in front of the Utah Conservation Commission on Thursday the 18th of January.

Approval of the minutes:

19 MIN. 05 SEC.

- **Item No. 1 Approval of the Minutes:** The Providence City Council will consider for approval the minutes of December 5th, 2023 . **(MINUTES)**

- Mayor Alder called for the approval of the minutes of December 5th, 2023.
- No comments or corrections were made.

Motion to approve the minutes of December 5th, 2023. – Council Member Speth. 2nd Council Member Kirk.

Vote:

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

Nay-

Abstained-Council Member Kunz

Absent-

Motion passes, minutes approved.

Public Comments: Citizens may express their views to the City Council on issues within the City's jurisdiction. The City Council accepts comments: by email providencecityutah@gmail.com, and by text 435-752-9441.

- Mayor Alder opened the floor of public comment.
- Cole Parkinson, Attorney for Mr. and Mrs. Gehrke who are residents of Providence and are in the process of building a house and have had trouble moving in; addressed Council regarding the issues his clients are facing as they have been denied an occupancy permit.
- Ryan Snow commented that he has talked with Mr. Parkison and has informed him that he should talk with the city attorney to discuss the issues at hand.
- Mr. Parkinson alerted that he is just here to inform the Council of what his happening the some of the frustrations that his clients are going through.
- City and Council commented regarding the issues the City Council is not a liberty to discuss or make a decision as it is not a legislative issue. The parties discussed the occupancy permit checklist and there contract with the County.
- Parties discussed the permit process. The city again asked Mr. Parkingson to please refer to the city's attorney to address the issue and seek resolution.

Resolutions/Ordinances:

25 MIN. 55 SEC.

- **Item No. 2 Resolution 01-2024 Update and Revisions to City Council Bylaws:** The Providence City Council will review, discuss, and may take action on a resolution that updates the City Council Bylaws. **(RES. 01-2024)**

- Mayor Alder called item 2, gave an introduction and cited that the changes that have been made have not been substantiated changes but have more to do with gender neutral changes and outdated position assignments or labels.
- Parties discussed the Mayor Pro Temp bylaw and the coming proposed changes to Council assignments which will be discussed later.
- Council Member Speth asked about 3.1 of the bylaws and what was meant by it and why the recorder was listed. Ryan Snow responded that the assignments or duties that are referenced have to deal with the agenda preparation, noticing, minutes etc. and not their actual Council assignments.
- Parties discussed if section 5.1 needed to be addressed in regard to daylight savings time changes. Parties responded that referencing the standard mountain time includes daylight savings.

Motion to approve Resolution 01-2024 updating and revising the City Council Bylaws as have been presented and discussed. – Council Member Kirk. 2nd – Council Member Sealy.

Vote:

Yea- Council Members Kirk, Kunz Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes. City Council Bylaws will be changed per resolution.

29 MIN. 50 SEC.

➤ **Item No. 3 Resolution 02-2024-Justice Court Interim Judge Appointment:** The Providence City Council will review, discuss, and may take action on a resolution setting up an interim judge for the Providence City Justice Court. [\(RES. 02-2024\)](#)

- Mayor Alder called item 3, gave a brief introduction, and indicated that Judge Funk resigned due to his desire to run for county auditor. This resolution is before the Council so that they can allow for an interim judge while they further evaluate what to do in the long run.
- Ryan Snow discussed their future options with the Court, which was to hire a new judge, which could take 9 months, contract with another Justice Court in the valley or seek to eliminate the Justice Court all together. Noted that tonight they are just discussing and approving an interim judge so that the Justice Court can continue to function.
- The parties discussed the process of eliminating the Justice Court. Ryan Snow responded that a resolution had to be passed by their legislature representatives and that it is not something the city could just approve of. Advised that it involves a lot of work and that it would need to go before the State and since they are already in session it wouldn't be an option until next year. Informed that even if they eliminated the Justice Court, they would still need to pay the city prosecutor to prosecute cases in the District Court.
- Council Member Speth asked that in the future if we hired a new judge if there was something the city could put in place or in the contract that wouldn't allow for immediate resignation; but give the city and court time to resolve the issue before the judge leaves. Ryan Snow responded that if they go that route that that could be a possibility to clarify judge's salary and contract are governed by the State.

Motion to approve resolution 2-2024 Justice Court Interim Judge Appointment.- Council Member Nebeker. 2nd- Council Member Sealy.

Vote:

Yea- Council Members Kirk, Kunz Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes, City will move forward with appointing a interim judge until a more permanent solution and be put in place.

38 MIN. 10 SEC.

➤ **Item No. 4 Resolution 03-2024 Amending Providence City's Fee Schedule:** The Providence City Council will review, discuss, and may take action on approving a resolution to amend the city's consolidated fee schedule. [\(RES. 03-2024\)](#)

- Mayor Alder called item 4, gave a brief introduction, and opened the item up for discussion and questions.
- Council Member Nebeker asked about the 3% and 5% annual increases for Sewer and Stormwater and clarified that it would be that percentage increase every year. Ryan Snow responded that yes that was the intention for it go up each year on that percentage but that the city annually evaluates the fee schedule so it could also easily change.
- Council Member Speth commented on the annual increase and noted that doing such allowed a future treatment plant to be more feasible.
- Council Member Kirk asked about the per person regarding the burial fee. Ryan Snow responded that the per person was per employee, so each employee working for that burial which usually ranges from 2-3 city employees. Council Member Kirk commented that a straight \$200 per hour seemed more fair and easier to calculate for the residents.
- The parties talked about the effective date of this fee schedule and effective dates for the optional recycling and fiber non-subscriber fee as those won't be in place if the effective date was tomorrow. Parties discussed changing the effective date to March 1st and motioning to have specific effective dates for garbage and fiber.
- Council Member Kirk asked about the special event fee and what constitutes a special event. Staff responded that usually special events required more than just the park or pavilion, such as the city streets, for example hosting a marathon or some demonstration; and it is usually not in addition to the park reservation which would be just for the park or pavilion.
- Council Member Kirk commented on the new water usage fee that was instituted last year and if there are any numbers that show if its working and people are paying attention and conserving water. Ryan Snow replied that they did get some numbers back regarding water usage and that the increase was very minimal for new developments.
- The parties discussed notifying residents of that fee yearly through the city newsletter or through billing.
- Parties discussed the different uses of Von Baers Park and Zollinger Park. Staff commented that when you reserve Vons Baer Park you get the whole park and not just the pavilion, however they don't get

the trail or disc golf course that's by the park. With Zollinger Park you just reserve the pavilion. Parties discussed the demand for the parks and price differences.

Motion to approve Resolution 03-2024 Amended Fee Schedule as it has been presented with the following changes: 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 it is approved by the city council. The Failure to Conclude Burial Services by 4 pm Fee will be \$200/hr. prorated. – Council Member Kirk. 2nd- Council Member Nebeker.

Vote:

Yea- Council Members Kirk, Kunz, Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes, amended fee schedule with motioned changes is approved.

Plans and Other Business:

38 MIN. 30 SEC.

➤ **Item No. 5 Providence City Council Goals & Assignments:** The Providence City Council will review, discuss, and may take action on approving their goals and assignments for 2024.

- Mayor Alder called item 5, gave a brief introduction, and opened the item up for any questions or discussions.
- Council Member Kirk noted that she was pleased to see that a few things were moved around as she felt a few members had more than their fair share.
- Staff clarified that Council Member Nebeker would no longer be over the mosquito abatement meetings. Council Member Nebeker responded that he would be passing that assignment along.
- Parties discussed the Mayor Pro Tem assignment and if it needed to be its own item. Council Member Speth commented on the Council Bylaws as it pertains to the Mayor Pro Tem position. The parties concluded that it did not need to be its own item and that by approving their assignments as shown would move the Mayor Pro Temp assignment or calling from Council Member Sealy to Council Member Kirk.

Motion to approve the 2024-2026 Providence City Council Goals & Assignments as has been discussed with Council Member Kirk becoming the new Mayor Pro Tem. – Council Member Sealy. 2nd – Council Member Speth.

Vote:

Yea- Council Members Kirk, Kunz, Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes, Council assignments and goals approved.

1 HR. 03 MIN. 50 SEC.

- **Item No. 6 2024 Providence City Meetings, Events and Holidays Schedule:** The Providence City Council will review, discuss, and may move forward with approving the city's 2024 Meetings, Events and Holidays schedule. **(2024 SCHEDULE)**

- Mayor Alder called item 6, gave a brief introduction, and indicated that the biggest changes to the schedule would be adopting June 19th (Juneteenth) as a paid holiday and giving staff the week of Christmas as a prep week. Christmas Eve and Christmas Day would be paid holidays but the remaining days the office would be closed, however staff could take vacation time or come in work if they needed.
- Council Member Krik reminded staff if they could make sure to put the Easter Egg Hunt on the calendar.
- Council Member Sealy commented that she liked the graphic.

Motion to adopt the City's 2024 Meetings, Events and Holiday Schedule. – Council Member Sealy. 2nd- Council Member Kunz.

Vote:

Yea- Council Members Kirk, Kunz, Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes, 2024 city schedule is approved as presented.

Study Items:

1 HR. 08 MIN 30 SEC.

- **Item No. 7 Providence City Code 4-3 Garbage, Waste and Recycle Amendments:** The Providence City Council will review and discuss proposed amendments to the PCC 4-3 Garbage, Waste and Recycle. **(EXHIBIT)**

- Mayor Alder called item 7, gave a brief introduction, and opened the discussion up for any questions or comments regarding the proposed code amendments.
- Council Member Sealy commented on the section (line 168) and wondered if the definition or wording regarding 'Community Waste' should be changed to green waste which seems to be a more common term. Also noted that staff should look into changing the word refuse as well as that seemed confusing. Ryan Snow noted that the words garbage and refuse are used interchangeably. The Council noted that it would be cleaner to just stick with one and recommended using garbage.
- Council asked about the definition of 'Market Waste'. Staff responded that they would look into and replace or remove if needed as they didn't know or have a specific definition.
- Council stated that there was a typo on line 42 with the word 'waster' and line 135 where the word 'in' at the end should be stricken as well.

- Parties discussed the ‘paid in full’ section as it relates to past due bills and the fees for water connections and the water shutoffs. Staff advised that the water connection fee, which is \$500, was not for when water is turned off for failure to pay a bill but for when new homes or homes connect to the water system for the first time. The water on and off fee is only around \$30.
- The parties discussed the issue of water shutoffs in the winter and potentially freezing pipes.
- Council Member Sealy commented that on line 195 – County Service Area should be stricken. And that on line 203 the word ‘chapter’ should be included and not stricken.
- Council Member Speth commented on the section regarding night soil and what that means and whether or not staff should clarify the dumping of manure as it relates to fertilizer. Staff commented on the issue of dumping manure on vacant lots or areas. Council Member Sealy suggested adding the dumping of tires as well as she as seen that become a problem as people don’t want to pay to have their tires recycled.
- The Council noted that on line 270 it should be ‘an order’ and not ‘a order’.
- Council Member Sealy asked if it would be appropriate to add to section 4-3-9 that the offenders pay for or be billed for any work that has to be done. Council Member Speth brings up the issue of how a emergency is defined and who defines it as that may influence what is and isn’t billed or where the cost should come from.
- The parties discussed emergency situations and what would constitute an emergency versus a nuisance and using the court as a channel to resolve the issue.
- Council Member Speth noted that he would like to see more definition of what would constitute or define an emergency. Staff replied that they would try and work something out.
- The Council agreed to move this forward to a public hearing.

1 HR. 29 MIN. 20 SEC.

- **Item No. 8 Providence City Code 7-12 Fiber-Optic & 11-4-8 Fiber System Code Introduction:**
The Providence City Council will review and discuss creating new city code regulating the city’s Fiber Optic Network. **(FIBER CODE PCC 7-12)** & **(FIBER SYSTEM CODE PCC 11-4-8)**

- Mayor Alder called item 8, gave a brief introduction, and opened the item up for discussion and questions regarding the two proposed codes regarding the city’s fiber system.
- Council Member Speth asked how disconnecting a home or resident from the system based on illegal activity was going to be confirmed, tracked, or initiated or what the process would be. Parties commented on residents being innocent until proven guilty. Staff responded that yes, they would not move forward unless they had substantial proof of illegal online activity.
- Council Member Sealy asked how Metro and Municipal were being defined as they are used in the code and referenced the main line and point of delivery.
- Parties discussed Metro and Municipal definitions and how they should be used in this case or code.
- Council Member Speth asked if there needs to be something in the code to address if contractors damage any lines or streets as it relates to Fiber. Ryan Snow commented that it should be covered under the Blue Stakes rules. Asked how extensions or new connections would be handled and if there should be a price for inspections. Staff responded that they are not at that point yet and noted

that they are working toward it. Parties talked about possible solutions and future code suggestions.

- Staff indicated that part two, the Fiber System Code would go to the Planning Commission as it deals with land use ordinances, so they would be the one to further study, set a public hearing and make a recommendation to the Council.
- The Council agreed to set PCC 7-12 for a public hearing.

1 HR. 39 MIN. 20 SEC.

➤ **Item No. 9 Mobile Food Vendors PCC Introduction:** The Providence City Council will review and discuss creating a new city code regulating Mobile Food Vendors. [\(EXHIBIT\)](#)

- Mayor Alder called item 9, gave a brief introduction and asked Council if they had any questions or comments regarding the proposed code.
- Council Member Speth asked if section 3-13-5 (b) was too restrictive. Commented on the definition of merchandise and branded merchandise. Skarlet Bankhead commented on variety vendors who would be allowed to sell more than just branded merchandise but that it is a different license. Informed that this code strictly deals with food, beverage and branded merchandise that promotes their business.
- Council Member Sealy asked about mobile business reference on line 11. Mrs. Bankhead explained to the Council that the State governs or regulates a lot of mobile vendors, so a lot is taken from State code or referenced or adopted with State code.
- Parties talked about clarifying branded merchandise and what it specifically means. The Council asks if staff could clarify the wording or definition a bit. Staff responded that they would.
- Parties addressed restroom facilities and prohibited acts such as vendors not being allowed to serve food off the grill or smoker. Staff commented that this code would apply to vendors at city celebrations.
- Skarlet Bankhead commented on the sale and use tax procedures and how that regulates vendors and who has to apply or report to the State for such taxes and sales.
- Parties conveyed the requirement of inspections. Staff respond that the State implements health and fire inspections.
- Parties discussed conditional use and who would be responsible for applying. Mrs. Bankhead noted that the Council didn't have to make them conditional uses and could remove that section if they so choose. The Council agreed that conditional use would be fine. Agreed to set item for a public hearing.

1 HR. 58 MIN. 05 SEC.

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

Ty Cameron:

- Asked Council if they wanted the three recent items that have been approved for public hearings to be split up or on the same day. Council responded that they would like them all on the same day.

- Regarding the Justice Court they found a Judge to cover this Monday but that we are still in the process of looking for a long-term interim judge until Council decides what to do in the long run. Asked Council if they would be ok with the court changing days and going completely virtual. The Council responded that they would be ok with that.

Rob Stapley:

- Remarked that he and his staff are very busy with snow removal and truck maintenance. Would like the Council and city to spread the word that removing snow to widen the road is necessary to prepare for the next round of snow and that yes at times that snow will end up in peoples driveway. They have gotten a lot of complaints from citizens regarding the plowing of roads but again reiterated that they are doing what needs to be done and what is best for the city and its people.
- Council commented that the city does a great job of snow removal and has the best plowed streets in the valley. Council asked how best to approach residents who complain about snow being pushed in their driveway and those residents who push snow into the roads. Rob Stapley responded that it is best to keep your cool and inform them that they are violating city code to put snow back into the roads.
- Rob Stapley noted that there has been a lot of truck maintenance that has been needed but that they are getting the job done.
- Parties highlighted the best practice of removing snow around the curb to help out the snowplow drivers.
- Council Member Nebeker asked if school late starts helps the drivers with plowing the snow around the school. Rob responded that any extra time to make a couple of passes on a road without having to deal with parked cars is always helpful.
- Council Member Speth commented that citizens should be happy and grateful that the city does such a great job at keeping the roads clear and that dealing with a little bit of pushed snow back into their driveway is a very little problem or concern.

Skarlet Bankhead:

- Reported that Sheyler is responsible for plowing the city's public sidewalks and does his best to clear the sidewalks but indicated that they are at point where they have gotten so much snow that he is unable to pile higher and has to go wider based on the snow plow bucket not being able to be risen up.
- Submitted the City's income housing report that has been required by the State and noted the difficulties she has had in preparing that report and submitting it. Commented that the State seemed to always have something that needed to be fixed. Council Member Sealy asked if she had learned anything to help with future filings. Mrs. Bankhead responded that she had and that most of the difficulties came from not knowing what the State really wanted; and understanding that at times the State didn't know what they wanted with these reports. Advised that the State seems more concerned about the details than the results. Commented that she is trying to incorporate the required strategies into the staff reports for the Planning Commission to show the city is doing what they can to comply and to have a record of using what we said we'd try and use.
- Commented on the first-time home buyer program and issues and limitation she sees with that program. States that only new builds qualify for the program. Parties commented on the program, the housing market and who that program actually benefits.

Ryan Snow:

- Reported that fiber subscribers continue to rise and that we are seeing around 50 new subscribers a month, so we are making good progress with fiber. Noted that he and Rob went out today inspecting the fiber connections and construction to really evaluate that we have a good product on our hands and that we shouldn't have to many issues.
- Talked about the new amended fee schedule and the increase in Sewer and Stormwater and showed an 30 year budget projection that shows that it was necessary to allow the city to continue to benefit or have a cash flow so that future projects could be covered. f
- Commented that it is grant writing season and is working on a few grants for the city and will have more information when the time comes to submit those grants.
- Is here to help the City Council understand some of the issues that staff are dealing with and invites the Council to ask any questions at any time.
- The Council thanked Ryan Snow for all his hard work.

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

Vote:

Yea- Council Members Kirk, Kunz, Sealy, Speth & Nebeker.

Nay-

Abstained-

Absent-

Motion passes, meeting adjourned.

Next Council meeting will be February 21st.

Minutes approved by vote of Council on ____ day of _____ 2024.

Kathleen W. Alder, Mayor.

Ty Cameron, City Recorder.

Ordinance No. 02-2024

AN ORDINANCE AMENDING CITY CODE. CITY CODE TITLE 4: PUBLIC HEALTH AND SAFETY; CHAPTER 4-3 GARBAGE, WASTE & RECYCLE.

WHEREAS UCA § 10-3-701 states, “except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative power through ordinances.” And

WHEREAS, The City is seeking to provide garbage services to its citizens as its own enterprise in the coming months and is seeking to amend the city code that governs waste removal to better encompass the city’s needs and requirements.

WHEREAS, Providence City has ordinances in place to regulate and provide for the city’s public health and safety, such as the city’s garbage and refuse regulations as set forth in PCC 4-3.

WHEREAS, the City Council desires to repeal and replace PCC 4-3 All Sections, per the city’s new plans to manage its own garbage, waste, and recycling services beginning this year.

WHEREAS, PCC 4-3 sets forth code to govern and regulate how the city will manage said services.

WHEREAS, The Providence City Council held a public hearing regarding this proposed new code on February 21st, 2024, taking comments, questions, and recommendations from the public.

WHEREAS, the City Council desires to amend the city code relating to garbage, waste, and recycling to better establish and meet the needs of its residents.

WHEREAS, The City Council motions to approve this ordinance and have incorporated into the city code the attached code amendments that amends the definitions, requirements, permits, process, prohibited acts etc. for the city’s garbage, waste and recycling process needs.

THEREFORE, be it ordained by the Providence City Council;

- The attached code shall be approved and added to the city code.
- This ordinance shall become effective immediately upon passage.

Passed by vote of the Providence City Council this _____ day of _____ 2024.

Council Vote:

Nebeker, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Kirk, Carrie	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

47	Kunz, David	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
48	Sealy, Jeanell	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
49	Speth, Brent	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

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55 Kathleen Alder, Mayor

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57 Attest:

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59 Tyler Cameron, Recorder

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Code Amendment Review				
Prepared by: S Bankhead	Date: 02/08/2024	Land Use	Yes:	No: X
Code Title: 4 Public Health and Safety	Title Chapter: 3 Garbage and Refuse	Chapter Section: All sections 1 – 9		
Applicant: City Staff				
Abbreviations & Authority: <ol style="list-style-type: none"> 1. Utah Code Annotated: UCA 2. The UCA references are summarized in this analysis. For a complete details and code requirements, please review the online Utah Code at: https://le.utah.gov/xcode/code.html 3. Providence City Code: PCC 4. The PCC references are summarized in this analysis. For a complete details and code requirements, please review our online city code at: https://providence.municipalcodeonline.com/book?type=ordinances#name=Preface 5. Recommendation: Planning Commission (PCC: 10-4-4:B.1) 6. Legislative body: City Council 				
Background Information: <ol style="list-style-type: none"> 1. The Applicant is requesting a change to PCC Chapter 4-3 Garbage and Refuse. 2. Providence City currently contracts with Logan City for garbage services. The contract expires in April, at which time the city will assume the garbage service responsibilities. 3. The city staff is proposing changes to PCC Chapter 4-3 consistent with the city assuming the garbage service responsibilities. 				

FINDINGS OF FACT:

1. UCA 10-3-701. Legislative power exercised by ordinance. Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.
2. UCA 10-3-702. The governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct of condition authorized by this act or any other provision of law.
3. UCA 10-3-703. The governing body may impose penalties for violation of a municipal ordinance.

CONCLUSIONS OF LAW:

1. The Providence City Council is the governing body.
2. The Providence City Council may enact or amend municipal ordinances.
3. The applicant filed a complete application, including reasons for the proposed amendment.

CONDITIONS:

1. The Providence City Council will continue to process the proposed code amendment in accordance with UCA 10-3-7
2. The applicant shall meet all applicable City, state and federal laws, codes, rules.

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 its 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:

- A. Putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, and solid market and industrial wastes; or
- B. 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, Waste and Recycle department of the city is hereby created and established as an enterprise fund. It shall administer the operations and maintenance of the garbage, waste, 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~~ **garbage** collection or ~~refuse~~ **garbage** 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~~ **garbage** 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 garbage** 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~~ **green** 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 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.~~

- 102 2. The city council may from time to time promulgate rules for levying, billing, guaranteeing and
103 collecting charges for garbage, waste and recycle services and all other rules necessary for the
104 management and control of the utility.
105
- 106 C. *Applicability.* Charges shall apply to all residences and business establishments, whether or not they have
107 also elected to haul their own garbage or employ the services of authorized garbage haulers.
- 108 D. *Combined billing; ~~exception~~ exemptions, surcharges, and credits.*
- 109 1. The garbage service charges above-imposed by this section shall be added to the charge made
110 for water furnished through the water system of the city **monthly utility billing**, and shall be
111 billed and collected in the same manner as water service charges are billed and collected.
- 112 2. ~~In the event the obligee for the water service charges and the obligee for the garbage service~~
113 ~~charges do not coincide, or in the event that practical economic and administrative reasons do~~
114 ~~not make combined billing and collection feasible in the opinion of the city council, the garbage~~
115 ~~service charges may be collected with such frequency and in such manner as the city council shall~~
116 ~~by regulation provide. The city council may establish exemptions, surcharges and credits to the~~
117 ~~garbage, waste and recycle utility fee by resolution.~~
- 118 3. **Special rates.** The city council may from time to time fix by agreement or resolution special rates
119 and conditions for users making use of the garbage, waste and recycle services under exceptional
120 circumstances, upon such terms and conditions as they may deem proper.
- 121 4. **Administrative policies.** The city staff may adopt policies, consistent with this chapter and any
122 ordinances and/or resolutions adopted by the city council, to assist in the application,
123 administration and interpretation of this chapter and any ordinance and/or resolution related to
124 the garbage, waste and recycle services.
- 125 E. *Statement of charges; delinquency.*
- 126 1. **Statement.** The garbage, waste and recycling utility fee shall be included on the city's regular
127 monthly utility billing. The city shall furnish to each user, electronically, or mail to, or leave at the
128 user's place of residence or usual place of business, a written or printed statement stating
129 thereon the amount of garbage, waste and recycling service charges assessed against the user
130 once each month or at such other regular interval as the city council shall direct. The statement
131 shall specify the amount of the bill for the garbage, waste and recycling service and the place of
132 payment and date due.
- 133 2. **Failure to pay.** If any person fails to pay the garbage, waste and recycling charges within 30 days
134 of the due date, the city may disconnect the water service to the customer unless the customer
135 pays the bill.
- 136 3. **Payment of delinquent charges.** If the water service is thereafter discontinued for failure to make
137 garbage, waste and recycling utility charges, then before the water service to the premises shall
138 again be provided, all delinquent garbage, waste and recycling sewer charges must have been
139 paid to the city or arrangements made for their payment in a manner satisfactory to the city.
- 140 4. **Additional charges.** In the event water is turned off for nonpayment of garbage, waste and
141 recycling charges, then before the water service to the premises shall again be provided, the
142 customer shall pay, in addition to all delinquent charges, such extra charge for turning the water
143 on and off as the city council may have established by resolution or ordinance. Until such
144 resolution has been adopted, there shall be added an extra charge in the amount established by
145 resolution for turning on the water. Furthermore, in addition to such payments and penalties, a
146 delinquent customer may be required to make and file a new application and deposit if the
147 previous deposit has theretofore been applied to the payment of delinquent bills.
- 148 5. **Collection enforcement.** The city is hereby authorized and empowered to take all action
149 necessary to enforce collection, including, but not limited to, the commencement of legal
150 proceedings in a court of proper jurisdiction seeking judgment for all of the amount of the
151 delinquent fees and services charges and all costs of collection, including court costs and
152 reasonable attorney fees.

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

190 4-3-5 Vehicles and Equipment

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

200 4-3-6 Inspections

201 Any authorized employee or agent of the city, after providing identification, shall have the power to enter at
202 reasonable times, upon private or public property for the purpose of inspecting and investigating conditions
203 relating to the enforcement of the provisions of this chapter.

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

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 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 an order reciting the existence of such an emergency and the conditions violating this chapter which require corrective action to

Code Amendment

Chapter 4-3 Garbage and Refuse

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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.

A. A serious health hazard is any substance or material that can have harmful effects on the health of people and the environment; identified by the EPA as containing elements and properties that can produce potentially detrimental effects. The four identifiable classifications are “listed” wastes, “characteristic” wastes, “universal” wastes, and “mixed” wastes.

B. The notice shall:

1. Identify the relevant regulation or ordinance at issue;
2. Specify the violation of the regulation or ordinance; and
3. Provide for a reasonable time to curing the violation, taking into account the cost of curing the violation.

C. If the violator fails to take corrective action to remove such serious health hazard:

1. The city shall employ all necessary assistance to remove the serious health hazard;
2. The city will prepare an itemized statement of all expenses incurred in the removal and shall provide the violator with a copy, demanding payment within 30 days of the date of the statement.
3. If the violator fails to pay or arrange to pay the amount due within the 30 days, the city may pursue other legal remedies including civil or criminal action, all remedies being alternative in nature.
 - a. The city may require reimbursement by the party involved for any costs and fees incurred by the city in applying administrative remedies, when those costs and fees are above and beyond the normal or customary costs and fees of processing and pursuing the actions involved. Costs and fees that could be charged and collected may include, but are not limited to, legal fees, administration costs, the costs of additional inspections, collection costs, and the costs and fees incurred for any other work done, services performed and materials purchased by city employees or those hired by the city to remove the serious health hazard.

Ordinance No. 03-2024

AN ORDINANCE ADDING NEW CODE TO GOVERN AND REGULATE THE CITY'S FIBER OPTIC NETWORK. CITY CODE TITLE 7: PUBLIC WAYS & PROPERTY, CHAPTER 12: MUNICIPAL FIBER-OPTIC INTERNET SYSTEM USE AND SERVICE, SECTIONS: 1-15 .

WHEREAS UCA § 10-3-701 states, "except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative power through ordinances." And

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 each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, and soil content.

WHEREAS, Providence City received and reviewed the Providence Fiber Feasibility Study prepared by Susan Becker, Zions Public Finance, Inc. back in 2020.

WHEREAS Providence City passed a resolution declaring the intent of the city council to proceed with the installation of fiber throughout the city which was approved on the 15th of July 2020.

WHEREAS Providence City contracted with Strata Networks for the installation of said fiber network throughout the city.

WHEREAS, the Providence City Council recognized the importance of technology and the ability to deliver bandwidth and speed to support advancing technologies and their data usage; and now recognizes the need to establish a department to manage and maintain that fiber network.

WHEREAS the purpose of this ordinance is to create and establish a municipal fiber-optic network department for and on behalf of Providence City and its residents.

WHEREAS, The Providence City Council held a public hearing regarding this proposed new code on February 21st, 2024, taking comments, questions, and recommendations from the public.

WHEREAS, the City Council desires to create a new code to establish provisions to regulate and govern the city's Fiber Optic System

WHEREAS, The City Council motions to approve this ordinance and have incorporated into the city code the attached code review that establishes the department, definitions,

requirements, services, limitations, prohibited acts etc. for the city's new fiber optic system.

THEREFORE, be it ordained by the Providence City Council;

- The attached code shall be approved and added to the city code.
- This ordinance shall become effective immediately upon passage.

Passed by vote of the Providence City Council this _____ day of _____ 2024.

Council Vote:

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

Kathleen Alder, Mayor

Attest:

Tyler Cameron, Recorder

Code Amendment Review				
Prepared by: S Bankhead	Date: 02/08/2024	Land Use	Yes:	No: X
Code Title: 1 Administration 7 Public Ways and Property	Title Chapter: Definitions and Construction 3 Municipal Fiber-Optic Internet System Use and Service	Chapter Section: 2 Definitions All sections 1 – 15		
Applicant: City Staff				
Abbreviations & Authority: <ol style="list-style-type: none"> 1. Utah Code Annotated: UCA 2. The UCA references are summarized in this analysis. For a complete details and code requirements, please review the online Utah Code at: https://le.utah.gov/xcode/code.html 3. Providence City Code: PCC 4. The PCC references are summarized in this analysis. For a complete details and code requirements, please review our online city code at: https://providence.municipalcodeonline.com/book?type=ordinances#name=Preface 5. Legislative body: City Council 				
Background Information: <ol style="list-style-type: none"> 1. The Applicant is requesting an amendment to Title 7 by adding Chapter 12 Municipal Fiber-Optic Internet System Use and Service; and amending PCC Chapter 1-3 by adding definitions related to the fiber-optic internet system. 2. Providence City is nearing completion of the fiber installation project. 3. The city staff proposes adding Chapter 7-12, which creates the department and establishes an enterprise fund. 4. It is the intent a purpose of the chapter to provide a municipal fiber-optic internet system (fiber system) throughout the city which will: <ol style="list-style-type: none"> a. Operate as a utility. b. Provide broadband access to meet the needs of residents, businesses, city departments, and public agencies within the city. c. Allow the city to manage and regulate competing demands for the use of the public right-of-way by minimizing the installation of duplicative communications lines and facilities on, over or under the public right-of-way. d. Foster competition among retail internet service providers (ISP) by providing open access to the city's municipal fiber system. e. Encourage economic development by attracting businesses that require large amount of bandwidth for their operations. f. Provide for higher amount of bandwidth in residential homes. 				

FINDINGS OF FACT:

1. UCA 10-3-701. Legislative power exercised by ordinance. Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.
2. UCA 10-3-702. The governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct of condition authorized by this act or any other provision of law.
3. UCA 10-3-703. The governing body may impose penalties for violation of a municipal ordinance.

CONCLUSIONS OF LAW:

1. The Providence City Council is the governing body.
2. The Providence City Council may enact or amend municipal ordinances.
3. The applicant filed a complete application, including reasons for the proposed amendment.

CONDITIONS:

1. The Providence City Council will continue to process the proposed code amendment in accordance with UCA 10-3-7
2. The applicant shall meet all applicable City, state and federal laws, codes, rules.

PCC 1-3-2 Definitions

Additions related to the fiber system.

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

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

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

Dark fiber means excess capacity unlit fiber optic strands in the metropolitan area network that area available for use by public agencies, telecommunications service companies, and customers.

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

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

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

Internet service provider (ISP) means a retail broadband service provider.

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

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

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

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

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

Subscriber means a current or potential provider customer.

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

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

2
3 7-12-1 Intent and Purpose

4 7-12-2 Department Created and Enterprise Fund Established

5 7-12-3 Definitions

6 7-12-4 Applicability

7 7-12-5 No obligation to Provide Serve

8 7-12-6 Transfer of Rights Prohibited

9 7-12-7 Service Charges, Billing and Delinquency

10 7-12-8 Limitations

11 7-12-9 Rights of Way

12 7-12-10 Liability for Interruptions

13 7-12-11 Shut-Down for Repairs

14 7-12-12 Interference with the Fiber System

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 extend and improve a high capacity metropolitan area network, and to use excess capacity
44 thereon to provide access to network services, high capacity internet, dark fiber, and other
45 telecommunications services.
46 3. To make such rules and regulations as are necessary for the operation of the fiber system both
47 inside and outside the city limits.

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

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

- 53 D. Rates and charges for the use of the city's fiber system by public agencies, the city, and customers shall be
54 set at a level to ensure full cost recovery, including not less than the city's costs of operation and
55 maintenance of the fiber system, future capital needs, and fund resiliency.
56 E. The city staff may adopt policies, consistent with this chapter and any ordinances and/or resolutions
57 adopted by the city council, to assist in the application, administration and interpretation of this chapter
58 and any ordinance and/or resolution related to the fiber system.
59

60 7-12-3. Definitions for this chapter are found in Chapter 1-3 Definitions and Construction of this Code.
61

62 7-12-4. Applicability

63 The provisions of this chapter shall apply only to the delivery of access to and related services for the city owned
64 fiber system. Nothing herein shall be construed or deemed to regulate the delivery of communications or data
65 services over or across lines, facilities, or equipment owned by a private communications provider, or which may
66 be in the public right of way pursuant to a franchise, lease, or other license or privilege granted by the city.
67

68 7-12-5. No Obligation to Provide Service.

69 The city shall have no obligation to provide access to any provider or subscriber. The city reserves the right to limit
70 or refuse access at its sole discretion, provided access shall not be limited or denied in a manner that is
71 inconsistent with applicable federal, state or local law or regulations.
72

73 7-12-6 Transfer of Rights Prohibited

74 All rights to access and any rights or privileges arising under the provisions of this chapter shall not be transferred
75 to any person or entity without the express written approval of the city.
76

77 7-12-7 Service Charges, Billing and Delinquency.

78 A. Service rates and fees.

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

90 B. Billing.

- 91 1. The fiber system service charges imposed by this chapter shall be added to the monthly utility
92 billing.
93 2. The city shall furnish to each customer, electronically, or by mail, or leave at the user's place of
94 residence or usual place of business, a written or printed statement listing, the amount of fiber
95 service charges assessed, the place of payment and date due, once each month or at such other
96 regular interval as the city council shall direct.
97 3. If any customer fails to pay the fiber system charges within 30 days of the due date, the city may
98 disconnect the fiber service.
99

100 C. Delinquency

- 101 1. If the fiber service is disconnected for nonpayment of charges, before the service may be
102 resumed, all delinquent fiber system charges must be paid to the city or arrangements made for
103 their payment in a manner satisfactory to the city.
104 2. In the event the fiber service is disconnected for nonpayment, before the fiber service can be
reconnected, the customer shall pay, in addition to all delinquent charges, such extra charge for

turning the fiber service off and on as the city council may have established by resolution or ordinance.

- a. 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.
3. 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 judgement for all of the amount of the delinquent fees and service charges and all costs of collection, including court costs and reasonable attorney fees.

7-12-8 Limitations

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

7-12-9 Rights of Way

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

7-12-10 Liability for Interruptions

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

7-12-11 Shut-Down for Repairs

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

7-12-12 Interference with the Fiber System

- A. The city may refuse to supply access where there is a possibility that the delivery of such may seriously impair or disrupt any other customers, or which may disrupt the operation of the fiber system.

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

164
165 7-12-13 Tampering with Fiber System Prohibited

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

171
172 7-12-14 Protection of the Customer's Equipment

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

177
178 7-12-15 Theft of Access or Use

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

182
183 7-12-16 Violations and Penalties

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

Ordinance No. 01-2024

AN ORDINANCE ADDING NEW CODE TO REGULATE MOBILE FOOD VENDORS. CITY CODE TITLE 3: BUSINESS AND LICENSE REGULATIONS, CHAPTER 13 – MOBILE FOOD VENDORS, SECTIONS 1-6 .

WHEREAS UCA § 10-3-701 states, “except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative power through ordinances.” And

WHEREAS UCA 10-3-702 states that ‘the governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law’; And

WHEREAS, At the present time, the City does not have provisions for a mobile food vendor to obtain a business license. City staff has created a new code to enable a vendor to obtain a mobile food vendor business license.

WHEREAS, The Providence City Council held a public hearing regarding this proposed new code on February 21st, 2024, taking comments, questions, and recommendations from the public.

WHEREAS, the City Council desires to create a new code to establish provisions to regulate mobile food vendors.

WHEREAS, The City Council motions to approve and have incorporated into the city code the attached code review that establishes the definitions, requirements, permits, process, prohibited acts etc. for mobile food vendors.

THEREFORE, be it ordained by the Providence City Council;

- The attached code shall be approved and added to the city code.
- This ordinance shall become effective immediately upon passage.

Passed by vote of the Providence City Council this ____ day of _____ 2024.

Council Vote:

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

47

48 _____
Kathleen Alder, Mayor

49

50 Attest:

51

52 _____
Tyler Cameron, Recorder

53

54

Code Amendment Review				
Prepared by: S Bankhead	Date: 02/08/2024	Land Use	Yes:	No: X
Code Title: 3 Business and License Regulations	Title Chapter: Adding a new Chapter 13 Mobile Food Vendors	Chapter Section: Adding Sections 1 - 6		
Applicant: City Staff				
Abbreviations & Authority: <div><div>1.</div><div>Utah Code Annotated: UCA</div></div> <div><div>2.</div><div>The UCA references are summarized in this analysis. For a complete details and code requirements, please review the online Utah Code at: https://le.utah.gov/xcode/code.html</div></div> <div><div>3.</div><div>Providence City Code: PCC</div></div> <div><div>4.</div><div>The PCC references are summarized in this analysis. For a complete details and code requirements, please review our online city code at: https://providence.municipalcodeonline.com/book?type=ordinances#name=Preface</div></div> <div><div>5.</div><div>Legislative body: City Council</div></div>				
Background Information: <div><div>1.</div><div>The city staff is requesting a change to Title 3 Business and License Regulations by adding a chapter listing requirements and regulations for mobile food vendors.</div></div> <div><div>2.</div><div>Mobile food vendors frequently come into the City to sell their products. Most have had a business issued by another municipality. At the present time, the City does not have provisions for a mobile food vendor to obtain a business license.</div></div> <div><div>3.</div><div>City staff prepare the attached code amendment to enable a vendor to obtain a mobile food vendor business license.</div></div>				

FINDINGS OF FACT:

1. UCA 10-3-701. Legislative power exercised by ordinance. Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.
2. UCA 10-3-702. The governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law.
3. UCA 11-56-106. A political may require a mobile business to obtain a business license if the mobile business does not hold a current business license in good standing from another political subdivision in the state.
4. UCA 11-56-103(4). As long as it is consistent with state code, a political subdivision may:
 - a. require a mobile business to comply with local zoning and land use regulations,
 - b. address how and where a food truck or enclosed mobile business truck may operate within the political subdivision,
 - c. require a mobile business to obtain an event permit,
 - d. keep a copy of the following in each mobile business that is in operation and engaging in transactions:
 - i. a valid business license
 - ii. a valid health department permit
 - iii. a passing fire safety inspection.
5. PCC Title 3 list the requirements and regulations for businesses and licensing. At the current time, it does not address requirements and regulations for mobile food vendors.

CONCLUSIONS OF LAW:

1. The City Council exercises its legislative power through ordinances.
2. The City Council may enact ordinances regulating businesses.
3. The City Council may enact ordinances requiring a mobile business to obtain a business license in compliance with state code.
4. The City Council may enact ordinances listing requirements and regulations for mobile businesses.

5. The city staff has prepared the attached code amendment adding requirements and regulations for mobile food vendors; and is requesting the City Council consider adding the proposed Chapter 3-13 Mobile Food Vendors to the city code.

CONDITIONS:

1. The City Council shall consider enacting the proposed ordinance in a public meeting.
2. The applicant shall meet all applicable City, state and federal laws, codes, rules.

CHAPTER 3-13 MOBILE FOOD VENDORS

3-13-1: Definitions

3-13-2: License Required, Health Department Permit, Fees, Regulations

3-13-3: Review and Approval Process

3-13-4: Permitted Locations

3-13-5: Prohibited Acts

3-13-6: Compliance with Law

3-13-1 DEFINITIONS

See UCA 11-56-102 for the definitions of the following terms: enclosed mobile business, food cart, food truck, ice cream truck, and mobile business.

3-13-2 LICENSE REQUIRED, HEALTH DEPARTMENT PERMIT, FEES, REGULATIONS

- A. License Required: It is unlawful for any person to operate, conduct, carry on, or maintain mobile food vending without a business license. See Chapter 3-1 for general license provisions and application requirements.
 1. A mobile food vendor who has a valid business license from another political subdivision within the state is not required to obtain a Providence City business license.
 2. All mobile food vendors must be able to produce a valid business license, health department food truck permit, and evidence of a successful fire safety inspection upon request by a City official.
- B. Separate Licenses Required: A separate business license shall be required for each mobile food vending unit.
- C. Health Department Permit and Fire Safety Inspection: Prior to issuance of a Providence City license, vendors must obtain a Bear River Health Department permit. Such permit must remain in force during the license period. A vendor must also pass a fire safety inspection, performed by the designated fire department or show that it has passed a fire safety inspection by another political subdivision within the current calendar year.
- D. Fees: The license fees for a mobile food vendor shall be set by resolution of the City Council and published in the City fee schedule.
- E. Business Activity to Be Temporary: All business activity related to mobile food vending shall be of a temporary nature and must be able to be removed from the premises each day, and subject to the following requirements:
 1. Permitted hours of operation are seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M., except as otherwise authorized by the City Manager or designee.
 2. Storage of tables, chairs, umbrellas, or signs associated with the mobile food vendor operations, must be secured to prevent damage to others property in the event of wind occurrences.

3-13-3 REVIEW AND APPROVAL PROCESS.

- A. Applications shall be subject to review by code authorities, including those for public works, planning, zoning, building, fire, police, health, and others as required.
- B. Approvals shall be based on a combination of code compliance in all applicable areas.
- C. The applicant must obtain and maintain proper business and sales tax registration for all aspects of the operation prior to operating.
- D. Approval shall be based on any other factors or circumstances review authorities consider necessary to protect the public and enhance the community, such as:
 1. Pedestrian traffic and site compatibility with proposed operation; and
 2. Ability of the applicant to manage the operation and maintain compliance with all laws and local codes.
- E. Based on recommendations from the different reviewing entities, the license may be issued with any operational limitations specified.

3-13-4 PERMITTED LOCATIONS

- 53 A. Mobile Food Vending on Private Property: Vendors may only operate on private property with the owner's
54 express written permission or a person with authority to act on behalf of the property owner. The written
55 permission shall include any restrictions such as specific location on the property and hours of operation.
56 The applicant shall produce the written permission upon request of an authorized City official.
- 57 B. Zoning Restrictions:
- 58 1. Mobile food vending is permitted in the following zoning districts:
- 59 a. Mixed-Use District, MXD, See PCC 10-4-4
- 60 b. Commercial General District, CGD
- 61 c. Commercial-Hwy District, CHD
- 62 d. Public District, PUB See PCC 10-4-5
- 63 e. Recreation District, REC
- 64 2. Mobile food vending is allowed by conditional use in the following zoning districts:
- 65 a. Agricultural, AGR
- 66 b. Residential single-family detached: R-1-1, R-1-20, R-1-12, R-1-10, R-1-8, R-1-6
- 67 c. Residential multi-family: R-1-7, R-1-12, R-1-18
- 68 C. Limited Permitted Open Space and Residential Mobile Food Vending: Mobile food vending is also
69 permitted in residential and agricultural and open space zones, but only on public and private school
70 property, churches, parks, or other government owned property with written permission.
- 71 D. Conditions and Requirements.
- 72 1. City parks: As part of an approved pavilion or field rental or by invitation of the individual(s) that
73 rented the pavilion.
- 74 2. City sponsored events on City property: In an assigned location and by invitation of the City.
- 75 3. Mobile food vendors operating on City property must submit evidence of a certificate of
76 insurance, listing Providence City as an additional insured party, on an occurrence policy issued
77 by an insurance company authorized to do business in the state of Utah, showing comprehensive
78 general liability and property damage coverage for the event with the minimum limits required
79 by the city.
- 80 4. All mobile food vendors, including but not limited to mobile food trucks, mobile food trailers, or
81 ice cream trucks, shall be operable and shall maintain current vehicle registration, licensing, and
82 insurance when operating in the city.
- 83 5. Ice cream trucks: In addition to the requirements listed in state code, ice cream trucks must
84 adhere to the following:
- 85 a. For those ice cream trucks operating within the public right-of-way, the motor vehicle
86 shall have a clearly audible backup warning device that activates whenever the vehicle is
87 shifted into reverse gear and shall have a flashing yellow beacon on the roof of the
88 vehicle that is visible from all sides of the vehicle and is activated whenever merchandise
89 is being sold, offered for sale or displayed for sale.
- 90 b. Ice cream trucks shall not sell or offer to sell food or beverages on public streets where
91 the speed limit exceeds 25 miles per hour.
- 92 c. Food or beverages shall only be sold or offered for sale when the ice cream truck is
93 completely stopped and lawfully parked, and only from the rear or side of the vehicle
94 nearest to the curb or edge of the roadway on the right side of the vehicle. The operator
95 of the ice cream truck shall not sell to any person standing in the roadway.

96 3-13-5: PROHIBITED ACTS

- 97 A. Preparation Outside the Mobile Food Vending Unit: Vendors may prepare food and beverages outside of
98 the unit (e.g., meat smoking, corn roasting) but such preparation shall not obstruct vehicle or pedestrian
99 traffic nor create safety hazards to the public. Vendors, however, shall not serve food directly to customers
100 from such an outside food preparation area.
- 101 B. Items for Sale: Only food and beverage items, and merchandise branded with the mobile food vending
102 logos such as apparel or beverage containers, may be sold from units. The sale or distribution of other
103 merchandise (merchandise that is not branded with the mobile food vending logo), professional or
104 personal services, or alcoholic beverages is prohibited.
- 105

- C. Obstruction of Traffic: Placement of units or related accessories shall not obstruct or impede pedestrian traffic or vehicular traffic, access to and from driveways, or clear vision lines for vehicle drivers.
- D. Drive-Through or Drive-In Service Prohibited: Units shall serve pedestrians only. Drive-through or drive-in service is prohibited.

3-13-6 COMPLIANCE WITH LAW

Unit placement, mobile operation and any associated accessories must adhere to federal, state and local laws, regulations and policies. Local laws, regulations and policies include, but are not limited to, the City's zoning ordinances, noise ordinances, stormwater regulations, and fire and building codes.

DRAFT

Resolution 04-2024

A RESOLUTION APPROVING AN AMENDMENT TO PROVIDENCE CITY’S PERSONNEL POLICIES AND PROCEDURES MANUAL.

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, to be compliant with current URS standards, city staff is requesting the City Council consider the following proposed amendment to the Providence City Personnel Policies and Procedures Manual Revised September 16, 2020. Section 12. Retirement

A. Policy

5. For the purposes of Utah Retirement Systems (URS) coverage, the City classifies all **Tier 2** elected officials as part-time.
6. For the purposes of Utah Retirement Systems (URS) coverage, the City classifies the following **Tier 2** appointed officials as full-time: City Recorder, City Treasurer, Public Works Director, Administrative Services Director and City Manager. Currently, Providence City does not compensate appointed members on the following boards and/or commissions: Appeal Authority, and Historic Preservation Commission. However, for the purposes of Utah Retirement Systems (URS) coverage, if the City does compensate the appointed officials on the following boards and/or commissions—Appeal Authority, Historic Preservation Commission, and Planning Commission—they will be classified as part-time. Eligibility for retirement coverage under Utah Retirement Systems shall be administered in accordance with the statutory rules governing Utah Retirement systems.

WHEREAS the Providence City Council desires to comply with the current URS standards.

THEREFORE, be it resolved by the Providence City Council:

- The above referenced and stated proposed amendment shall be approved and adopted into the city’s Personnel Policy and Procedures Manual.

Passed by vote of the Providence City Council this ____ day of February 2024.

Council Vote:

Kirk, Carrie	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Kunz, David	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Speth, Brent	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Sealy, Jeanell	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Nebeker, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> 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.
 - ii. 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.
 - iii. The member making the motion must have information on the issue that was not available in the original vote on the motion.
 - iv. The member must have been with the prevailing side of the original vote.
 - v. 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.

Code Amendment Review				
Prepared by: S Bankhead	Date: 02/12/2024	Land Use	Yes:	No: X
Code Title: 1 Administration 5 Police Regulations	Title Chapter: 3 Definitions & Construction 4 Fence Regulations	Chapter Section: 2 Definitions 12 Retaining walls		
Applicant: Providence City				
Abbreviations & Authority: <ol style="list-style-type: none"> 1. Utah Code Annotated: UCA 2. The UCA references are summarized in this analysis. For a complete details and code requirements, please review the online Utah Code at: https://le.utah.gov/xcode/code.html 3. Providence City Code: PCC 4. The PCC references are summarized in this analysis. For a complete details and code requirements, please review our online city code at: https://providence.municipalcodeonline.com/book?type=ordinances#name=Preface 5. Recommendation: Planning Commission (PCC: 10-4-4:B.1) 6. Legislative body: City Council 				
Background Information: <ol style="list-style-type: none"> 1. The Applicant is requesting a change to PCC 1-3-2 Definitions by adding a definition for “retaining walls;” and adding section 12 Retaining walls to Chapter 5-4. 2. The city staff has received numerous questions and complaints regarding retaining walls throughout the city, but particularly in the bench areas. This proposed amendment seeks to provide clarification to the retaining wall requirements. 3. The planning commission reviewed the proposed amendments during their January 24, 2024 meeting. Their comments have been incorporated into this draft. 				

FINDINGS OF FACT:

1. UCA 10-3-701. Legislative power exercised by ordinance. Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.
2. UCA 10-3-702. The governing body may pass any ordinance to regulate, require, prohibit, govern control or supervise any activity, business, conduct of condition authorized by this act or any other provision of law.

CONCLUSIONS OF LAW:

1. The city council exercises its legislating power through ordinances.
2. The city council may enact any ordinance to regulate any activity.
3. The city council may enact or amend land use regulations.
4. The Providence City Council is the legislative body for the city.
5. The applicant filed a complete application, including reasons for the proposed amendment.

CONDITIONS:

1. The Providence City Council will continue to process the proposed code amendment in accordance with UCA 10-3-7
2. The applicant shall meet all applicable City, state and federal laws, codes, rules.

Proposed code

1-3-2 Definitions

RETAINING WALL. Any structure designed to resist the lateral displacement of soil or other materials. Examples include block walls, rock walls, concrete walls and segmented walls. A retaining wall is not considered a fence.

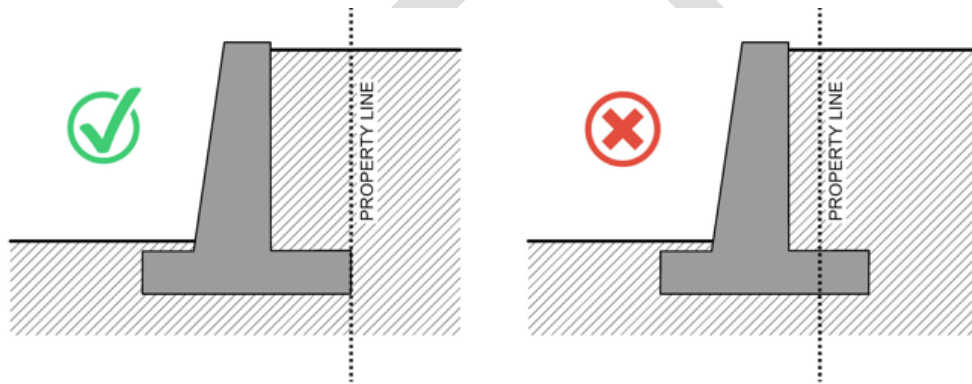
5-4-12 Retaining Walls

All retaining walls systems such as reinforced earth structures, rock retained slopes, etc. shall meet the requirements of this section.

A. Zoning Clearance and Building Permit Required

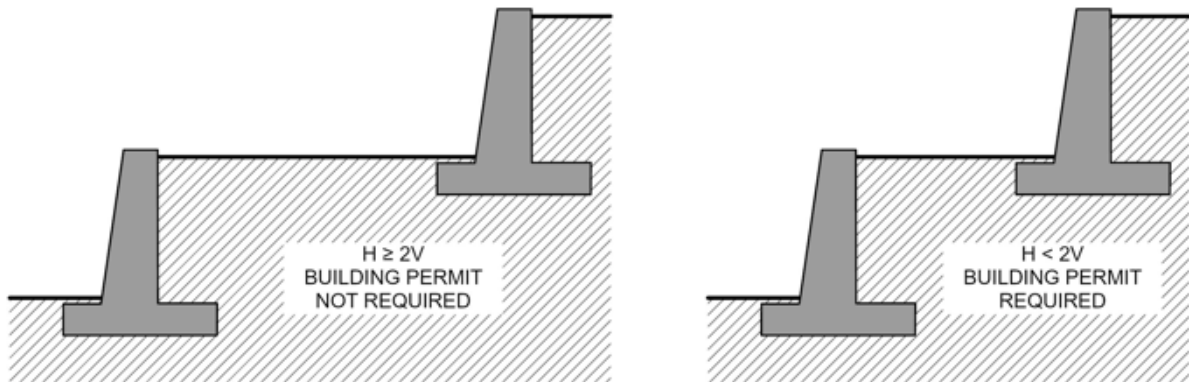
1. Zoning Clearance.

- a. To determine retaining wall height for zoning clearance, retaining walls shall be measured from the top of the exposed face to the finished grade.
- b. All retaining walls within the minimum setback, three feet in height or taller, require a zoning clearance.
 - 1) Footings for retaining walls within the minimum setback cannot extend into the neighboring property.



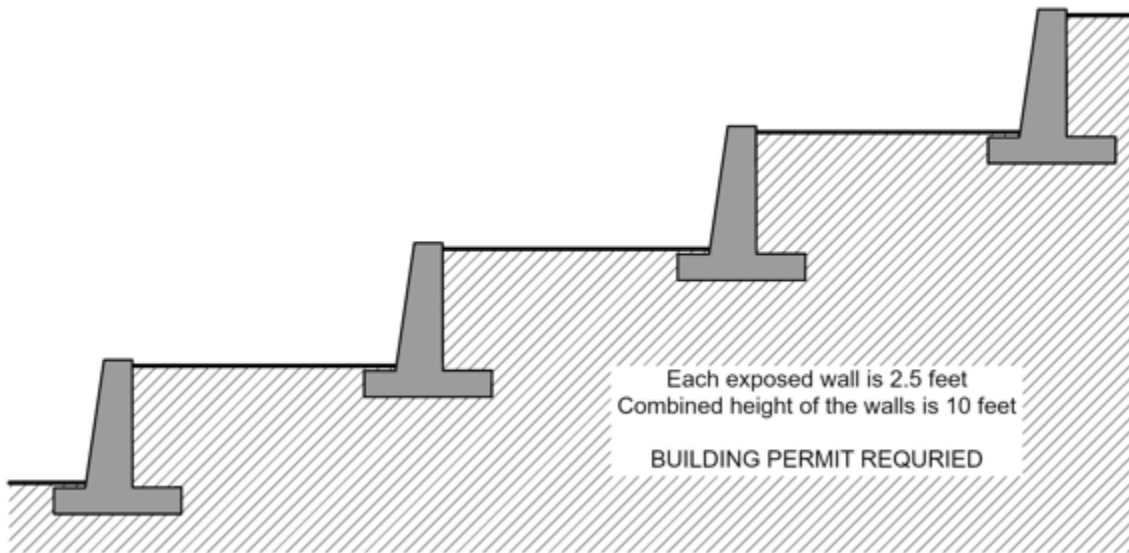
- c. A zoning clearance is required for all retaining walls that require a building permit.
 - d. Generally zoning clearances for retaining walls are issued as separate permits and are not included in permits for new homes, remodels, additions, etc. If a retaining wall permit is combined with a permit for new homes, remodels, additions, etc., the application must include design plans, reports, and meet the requirements of this section.
- 2. Building Permit.** Except as otherwise provided in Part 3, all retaining walls require a building permit prior to construction or alteration.

- 26 a. When retaining walls, less than four feet in height, are constructed in multiple tiers, with
27 horizontal distance between the walls less than 2 times the height of the taller wall, a building
28 permit is required.



29 H = Horizontal; V = Vertical

- 30 b. When retaining walls, less than four feet in height are constructed in multiple tiers, a building
31 permit is required if the combined height of the walls is ten feet or higher.



32 3. Building Permit Exemptions. The following do not require a building permit:

- 33 a. Non-tiered retaining walls less than four feet in exposed height that are not subjected to an
34 external load such as a footing or parking area.
- 35
- 36
- 37 B. Geologic Hazards. If construction of any retaining wall, occurs within sensitive land areas as outlined in
38 Chapter 10-5 of this code, then all analyses required for the design of retaining walls or rock protected
39 slopes shall follow the Sensitive Areas requirements, specifically in regards to limits of disturbance and
40 the required geologic hazard and engineering geology reports.
- 41
- 42 C. Engineer Design Required. All retaining walls required to obtain a building permit shall be designed by an
43 engineer licensed in the State of Utah.

1. If a retaining wall, less than 4 feet in height, is subjected to an external load (such as vehicular traffic, pedestrian traffic and parking area, or permanent loads such as protections systems against slope erosion, and adjacent structures), an engineered design may be required.
2. If an engineered design is required, the design shall be specific to the site and not a generic standard design.

D. Location, Height, Separation and Plantings

1. Location. The retaining wall will not be placed on land designated as a recorded easement, such as a utility or trail easement, unless the owner(s) of said easement agree(s) to allow the encroachment. Documentation of the agreement shall be provided to the City.
2. For the purposes of this Part, the height of a retaining wall is measured as exposed height of wall of an individual tier.
3. A single retaining wall shall not exceed eight feet in exposed height if the exposed face of the retaining wall can be seen from the nearest public right-of-way or adjacent properties to which it is exposed.
4. Terracing of retaining walls is permitted where justified by topographic conditions, but the combined height of all walls shall not exceed a height of 12 feet if the exposed face of the retaining wall can be seen from the nearest public right-of-way or adjacent properties.
5. For terraced walls, where the exposed face of the retaining wall is viewable from the nearest public right-of-way, the horizontal separation between walls shall be landscaped, utilizing drip irrigation, to minimize erosion, and when possible, the use of drought resistant vegetation to minimize future watering needs is encouraged.
6. The view of the nearest public right-of-way or adjacent property shall be verified by the city official during the review process and prior to permit for construction.
7. Clear view area. Placement of an individual retaining wall or a group of terraced retaining walls (including plantings) shall not violate the provisions of PCC 10-9-2.
8. Joint ownership of walls. Occasionally, adjacent property owners will each benefit from a retaining wall placed on a shared property line. To receive approval for a joint wall all parties:
 - a. Must agree in writing;
 - b. Must participate, either equally or proportionately, in the cost of the wall and installation;
 - c. Must have a written agreement, recorded against each affected lot, regarding ongoing repair and maintenance;
 - d. Recorded easements, if necessary.

E. Submittals. The following documents and calculations prepared by a licensed engineer of the State of Utah shall be submitted with each retaining wall building permit application:

1. Profile drawings if the retaining wall is longer than 50 lineal feet, with the base elevation, exposed base elevation and top of wall labeled at the ends of the wall and every 50 linear feet or change in grade;
2. Cross-sectional drawings including surface grades and structures located in front and behind the retaining wall a distance equivalent to three times the height of the retaining wall, and if the retaining wall is supporting a slope, then the cross section shall include the entire slope plus surface grades and structures within a horizontal distance equivalent to one times the height of slope;
3. A site plan showing the location of the retaining walls with the base elevation, exposed base elevation and top of wall labeled at the ends of wall and every 50 lineal feet or change in grade;
4. A copy of the geotechnical report used by the design engineer. The geotechnical report shall include requirement of Part E.5 otherwise additional laboratory testing is required in Part E.5;
5. Material strength parameters used in the design of the retaining wall, substantiated with laboratory testing of the materials as follows:
 - a. Soils. This may include, but is not limited to, unit weights, direct shear tests, tri axial shear tests and unconfined compression tests.

- 1) If laboratory testing was conducted from off-site but similar soils within a 2000 foot radius of the proposed wall location, the results of the testing with similar soil classification testing needs to be submitted;
- 2) Minimum laboratory submittal requirements are the unit weight of retained soils, gradation for cohesion less soils, Atterberg limits for cohesive soils, and shear test data;
- 3) Soil classification testing shall be submitted for all direct shear or triaxial shear tests;
- 4) If a Proctor is completed, classification testing shall be submitted with the Proctor result; and,
- 5) Laboratory testing should be completed in accordance with applicable American Society for Testing and Materials (ASTM) standards;
- b. Segmented (walls have a facing and lateral tieback system) block walls. The manufacturer's test data for the wall facing, soil reinforcement, and connection parameters shall be submitted in an appendix.
6. The design engineer shall indicate the design standard used and supply a printout of the input and output of the files in an appendix with factors of safety within the design standard used as follows:
- a. Design calculations ensuring stability against overturning, base sliding, excessive foundation settlement, bearing capacity, internal shear and global stability;
- b. Calculations shall include analysis under static and seismic loads, which shall be based on the peak ground acceleration (PGA) as determined from probabilistic analysis for the maximum credible earthquake (MCE), with spectral acceleration factored for site conditions in accordance with the current adopted building code;
- c. Mechanically Stabilized Earth (MSE) walls shall be designed in general accordance with current FHWA or AASHTO standards for design of Mechanically Stabilized Earth Walls and Reinforced Soil Slopes or the current National Concrete Masonry Association (NCMA) Design Manual for Segmental Retaining Walls;
- d. Rock walls shall be designed in general accordance with 2006 FHWA-CFL/TD-06-006 "Rockery Design and Construction Guidelines," or current FHWA standard of care and;
- e. Concrete cantilever walls shall be designed in general accordance with specifications provided in current American Concrete Institute or American Society of Civil Engineers standards and specifications.
7. A global stability analysis with minimum factors of safety of at least 1.50 under static conditions and at least 1.10 under seismic loading conditions as follows:
- a. Factors of safety results shall be presented to the nearest hundredth;
- b. Seismic loads shall be based on the PGA as determined from probabilistic analysis for the maximum credible earthquake (MCE), with spectral acceleration factored for site conditions in accordance with the current IBC;
- c. The cross-sectional view of each analysis shall be included, and the printout of the input and output files placed in an appendix; and,
- d. The global stability analysis may be omitted for concrete cantilever retaining walls that extend to frost depth, that are less than nine feet in exposed height, absent of supporting structures within 30 feet of the top of the wall, and which have less than 10H:1V (H=horizontal:V=vertical) front and back slopes within 30 feet of the retaining structure.
8. A drainage design, including a free draining gravel layer wrapped in filter fabric located behind the retaining wall with drainpipe day-lighting to a proper outlet or weep holes placed through the base of the wall, however:
- a. A synthetic drainage composite may be used behind MSE walls if a materials specific shear testing is completed to determine friction properties between the backfill and synthetic drainage composite;
- b. A synthetic drainage composite is not allowed behind rock walls;
- c. A synthetic drainage composite may be used behind the stem of the concrete cantilever walls;

- 145 d. If the engineering can substantiate proper filtering between the retained soils and the drain rock,
146 then the filter fabric may be omitted, and;
147 e. If the retaining wall is designed to withstand hydrostatic pressures or the retained soils or backfill
148 is free-draining as substantiated through appropriate testing, then drainage material may be
149 omitted from the design.
- 150 9. The design engineer's acknowledgement that the site is suitable for the retaining wall;
151 10. An inspection frequency schedule, during construction of the wall.
152
- 153 F. Preconstruction Meeting. At least 48 hours prior to the construction of any approved retaining wall, a
154 preconstruction meeting shall be held as directed by the city. The meeting shall include the city
155 representative, the design engineer, the contractor and the project or property owner. The
156 preconstruction meeting can be waived at the discretion of the city.
157
- 158 G. Inspections and Final Report. The design engineer shall make all inspections needed during construction.
159 A final report from the design engineer shall state that the retaining wall was built according to the
160 submitted design. The design engineer shall submit the final report to the Building Official to close out the
161 permit. The report shall include detail of the inspections of the wall in accordance with the inspection
162 frequency schedule. All pertinent compaction testing shall also be included with the final report.
163
- 164 H. Maintenance. All retaining walls shall be maintained in a structurally safe and sound condition and in
165 good repair.
166