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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 repel 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 21st day of February 2024.

Council Vote:

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

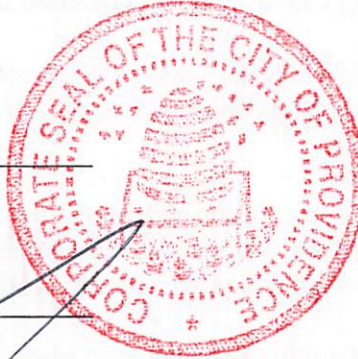
47 Kunz, David ☒ Yes ☐ No ☐ Excused ☐ Abstained ☐ Absent
48 Sealy, Jeanell ☒ Yes ☐ No ☐ Excused ☐ Abstained ☐ Absent
49 Speth, Brent ☒ Yes ☐ No ☐ Excused ☐ Abstained ☐ Absent

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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: 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.

1 PCC 1-3-2 Definitions

2
3 *Commercial garbage* refers to garbage produced in commercial establishments, public or quasi-public institutions
4 or establishments, including restaurants, hotels, motels and similar establishments.

5
6 ~~Community~~ **Green** waste means lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree
7 branches.

8
9 *Container or regulation container* means a type of garbage or trash container as provided by the City or its
10 contracted garbage collector and having a tightfitting lid or properly and sufficiently treated weather-resistant bag
11 manufactured specifically for use in garbage and refuse collection.

12
13 *Garbage* means waste from the preparation, cooking or consumption of food, condemned food products and all
14 refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in
15 kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked and
16 consumed.

17
18 *Refuse* means:

- 19 A. Putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, street
20 cleanings, dead animals, and solid market and industrial wastes; or
21 B. All waste matter, except garbage, attending, or resulting from the occupancy of residences, apartments,
22 hotels, or other places of dwelling and from the operation of a business. The term "refuse" shall not
23 include industrial waste or waste matter resulting from the construction, demolition or repair of a
24 building or other structure.

25
26 PCC Chapter 4-3 Garbage and Refuse, **Waste and Recycle**

27
28 4-3-1 (Reserved for Future Use) **Garbage and Refuse, Waste and Recycle Department Created**

29 4-3-2 **Definitions**

30 4-3-3 Collection and Pickup of Garbage

31 4-3-4 Service Charges

32 4-3-5 Regulations

33 4-3-6 Vehicles and Equipment

34 4-3-7 Inspections

35 4-3-8 Violations

36 4-3-9 Hearings

37 4-3-10 Emergency Provisions

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

40
41 4-3-1 (Reserved for Future Use) **Garbage and Refuse, Waste and Recycle Department Created.**

42 **The Garbage and Refuse, Waste and Recycle department of the city is hereby created and established as an**
43 **enterprise fund. It shall administer the operations and maintenance of the garbage, waste, and recycle services of**
44 **the city.**

45 4-3-2 **Definitions.**

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

47 4-3-3 Collection and Pickup of Garbage

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

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

B. Collection.

1. The city, or its agent, shall collect, remove and dispose of all residential and commercial garbage, the removal of which is not otherwise provided for by the establishment or institution as herein provided. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as **determined by** the city council ~~may from time to time establish by regulation.~~
 2. Except as otherwise expressly permitted by this chapter, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the city, except by the city or its agent, and except by authorized persons hauling commercial garbage or refuse as hereinafter provided. It is hereby declared to be unlawful for any person, except as permitted in this chapter, to haul or remove garbage or refuse in the city.
 3. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage themselves may employ the services of authorized contractors to remove commercial garbage. ~~Authorized garbage haulers must apply for and receive permission to do so from the city recorder.~~ Haulage of refuse must be done in the manner, and during such times and in such vehicles as may be approved for such purposes as **by** the city council ~~may from time to time by regulation provide.~~
 4. Nothing contained in this subsection shall preclude persons from hauling their own garbage, trash or **community 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.

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

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

191 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 shall
193 have enclosed bodies or suitable provision for covering the body. Provision and use of tarpaulin or canvas
194 cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the
195 ~~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.

205 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 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.