

Resolution 01-2024

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY COUNCIL BYLAWS.

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

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

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

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

THEREFORE, be it resolved by the Providence City Council:

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

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

Council Vote:

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

Providence City


Kathleen W Alder, Mayor

Attest:


Ty Cameron, City Recorder

PROVIDENCE CITY

City Council Bylaws

ARTICLE I - GENERAL PROVISIONS

1.1 Applicable State Statutes, City Code, and Bylaws.

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

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

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

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

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

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

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

1.4 Location of Recorder's Office

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

1.5 Conflict with Other Regulations

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

ARTICLE II - MEMBERS, QUORUM, AND RULES

2.1 Number of Members

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

2.2 The Mayor as Chair

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

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

2.3 Mayor Pro Tempore

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

2.3 Quorum.

The number of members of the Council necessary to constitute a quorum is three (3). The minimum number of yes votes required to pass any ordinance, resolution, or to take any action by the Council unless otherwise prescribed by law, shall be a majority of the members of the quorum, and shall never be less than three (3). The Mayor may only vote in the case of a tie, when the Council is voting on whether to appoint or dismiss a municipal manager or on an ordinance that enlarges or restricts the Mayor's powers, duties, or functions (UCA 10-3b302).

2.3 Rules of Procedure.

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

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

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

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

ARTICLE III - COUNCIL and STAFF

3.1 ~~Administrative Services Director/~~Recorder.

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

3.2 Duties of City Recorder.

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

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

ARTICLE IV - CONDUCT OF COUNCIL MEMBERS AND STAFF

4.1 Conflicts of Interest

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

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

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

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

public duties; or

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

Does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

4.2 Decorum.

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

ARTICLE V - HEARINGS/MEETINGS, GENERALLY

5.1 Hearing/Meeting, Date, Time, and Location

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

5.2 Study Meetings

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

5.3 Special (Emergency) Meeting

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

5.4 Recess or Adjournment

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

additional public notice.

5.5 Cancellation

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

5.6 Length of Hearings/Meetings

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

5.7 Time Control

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

5.8 Representation at Hearing/Meeting

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

5.9 Agenda Items.

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

ARTICLE VI - PROCEDURES AT HEARING/MEETING

6.1 Order of Business

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

6.2 Opening

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

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

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

6.3 Public Hearing Procedure.

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

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

6.4 Conduct During Hearings/Meetings

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

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

ARTICLE VII - FINDINGS AND DECISIONS

7.1 Timing of Decisions

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

7.2 Findings

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

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

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

7.3 Form and Procedure of Decisions

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

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

7.4 Notification

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

ARTICLE VIII - REQUEST TO WITHDRAW OR AMEND APPLICATIONS OR PETITIONS

8.1 Withdrawal

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

8.2 Amendment

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

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

8.3 Deferrals and Continuances

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

ARTICLE IX - AMENDING OR WAIVING RULES

9.1 Amending Bylaws

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

9.2 Waiving or Suspending Rules

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