

PROVIDENCE CITY COUNCIL MEETING AGENDA
March 24, 2015 6:00 p.m.
15 South Main, Providence UT

The Providence City Council will begin discussing the following agenda items at 6:00 p.m. Anyone interested is invited to attend.

Call to Order: Mayor Calderwood
Roll Call of City Council Members: Mayor Calderwood
Pledge of Allegiance:

Approval of the minutes

Item No. 1. The Providence City Council will consider approval of the minutes of March 10, 2015 City Council meeting.

Public Comments: Citizens may appear before the City Council to express their views on issues within the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total time allotted to public comment is 15 minutes. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Proclamation: Jim Payant, Child and Family Support Center, will make a brief presentation in conjunction with Child Abuse Prevention Month, nationally observed during the month of April.

Report: Allison Richman, BRAG Mobility Specialist will report on the Bear River Area Access and Mobility Council.

Report: Alma Leonhardt will give a report on the Cache Valley Transit District

Business Items:

Item No. 1. Resolution 007-2015. The Providence City Council will consider for adoption a resolution amending the Providence City Public Works Standards and Specification Manual by adding Drawing No. C-8 Clear View Detail.

Item No.2. Resolution 008-2015. The Providence City Council will consider for adoption a resolution approving the Municipal Wastewater Planning Program (MWPP).

Item No.3. Resolution 009-2015. The Providence City Council will consider for adoption a resolution approving the Development and Public Improvement Installation Agreement for Hillcrest Subdivision Phase 4; a 9-lot residential subdivision located generally at 519 East 800 South.

Item No. 4. Ordinance 2015-010: The Providence City Council will consider for adoption an ordinance amending Providence City Code Title 11 Subdivision Regulations by changing "Development Review Committee (DRC)" to "City Executive Staff".

Item No. 5. Ordinance 2015-011: The Providence City Council will consider for adoption an ordinance amending Providence City Code Title 10 Zoning Regulations, Chapter 1, Section 1 Use Chart, by allowing Radio/TV/cellular tower as a conditional use in the Public Use District.

Item No.6. Discussion: The Providence City Council will discuss proposed changes to the nuisance ordinance.

Staff Reports: Items presented by Providence City Staff will be presented as information only.

Council Reports: Items presented by the City Council members will be presented as informational only; no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting of this agenda and the City Council determines that an emergency exists.

Executive Session:

Item No. 1. The Providence City Council may enter into a closed session to discuss land acquisition or the sale of real property Utah Code 52-4-205(1) (d) and (e).

Item No. 2. The Providence City Council may enter into a closed session discuss pending litigation Utah Code 52-4-205(1) (c).

Item No. 3. The Providence City Council may enter into a closed session as allowed by Utah Code 52-4-205(1) (a)

Agenda posted the 19 day of March 2015.


Skarlet Bankhead
City Recorder

If you are disabled and/or need assistance to attend council meeting, please call 752-9441 before 5:00 p.m. on the day of the meeting.

Pursuant to Utah Code 52-4-207 Electronic Meetings – Authorization – Requirements the following notice is hereby given:

- Providence City Ordinance Modification 015-2006, adopted 11/14/2006, allows City Council member(s) to attend by teleconference.
- The anchor location for this meeting is: Providence City Office Building, 15 South Main, Providence, UT.
- Member(s) will be connected to the electronic meeting by teleconference.

1 **PROVIDENCE CITY COUNCIL MEETING**
2 **15 South Main, Providence UT**
3 **February 24, 2015 6:00 pm**

4
5 Call to Order: Mayor Calderwood
6 Roll Call of City Council Members: Mayor Calderwood
7 Attendance: B Bagley, Jeff Baldwin, R Call, J Drew, J Russell
8 Pledge of Allegiance: Joseph Sena, Scout Troop No. 89
9

10 **Approval of the Minutes:**

11 **Item No. 1.** The Providence City Council will consider approval of the minutes of February 10, 2015 City
12 Council meeting.

13 **Motion to approve the minutes with the following corrections: J Russell, second – J Drew**

- 14 • Page 1, correct Baldwin
- 15 • Page 2, change PC to Planning Commission
- 16 • Page 3, Line 20 – correct about
- 17 • Page 4, Line 28 add Randy Eck
- 18 • Page 5, Line 9-12, \$1200/month increasing 10% each 5 year term
- 19 • Page 6 - correct Baldwin
- 20 • Page 7 – correct Baldwin, comma after Call
- 21 • Page 8, line 8 employ not employee
- 22 • Page 8, Line 13 - misleading comments in the paper

23 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**
24 **Nay: None**
25 **Excused: None**
26 **Abstained: None**

27 **Public Comments:** Citizens may appear before the City Council to express their views on issues within
28 the City's jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per
29 person. The total time allotted to public comment is 15 minutes The City Council may act on an item, if it
30 arose subsequent to the posting of this agenda and the City Council determines that an emergency
31 exists.

- 32 • No public comments.

33 **Business Items:**

34 **Cache County Sheriff's Report:** Sheriff Chad Jensen, will report on the services provided by the Cache
35 County Sheriff's Office.

- 36 • Chad Jensen, newly elected Cache County Sherriff (took office January 25th, 2015), addressed
37 the council. Introduced himself, briefly reviewed departments and inmate capacity, local, state
38 and federal inmates. Discussed patrol policy and future contracts with the city.

39 **Item No. 1. Resolution 003-2015.** A resolution approving a land lease agreement with Verizon Wireless
40 (VAW) LLC for a 35-ft x 35-ft parcel located in the city storage yard area adjacent to Alma H Leonhardt
41 park (approximately 310 West 250 North).

42 **Motion to approve Resolution 003-2015 for Verizon Wireless Cell Tower: J Baldwin, second – J Drew**

- 43 • B Bagley had a question about how the rates were compounded.
- 44 • J Baldwin said the terms will increase every 5 years starting with a \$1200/month for the first 5
45 year term, the second 5 year term will be a 10% increase over the first 5 year term and the third
46 5 year term will be a 10% increase over the second 5 year term.
- 47 • S Bankhead asked how the council members felt about the counter offer that includes the
48 following points:

- 1 ○ Rent is \$1,200/month, Verizon pays no termination fee and a 25 year lease.
- 2 ○ City can terminate with 18 month notice after 15 years.
- 3 ○ 10% increase per term.
- 4 ○ City obtains sublease rights.
- 5 ● R Call felt there should be some kind of index to escalate the rent.
- 6 ● J Russell also preferred a 2% increase each year rather than 10% every 5 years.
- 7 ● B Bagley and J Baldwin liked the 10% increase each 5 year term with renegotiations after 15
- 8 years.
- 9 ● Mayor asked about the road getting back to the tower.
- 10 ● N Garcia said Verizon will put the road in and build it to the city's specifications.
- 11 ● B Bagley felt like it needed to be a good road since it will also be an access to the park.
- 12 ● J Baldwin would like an option to review rate terms at the end of 15 years and not be locked
- 13 into the 10% per term increase.
- 14 ● J Russell said at the end of 15 years the city can say they don't like the rates and Verizon can
- 15 either re-negotiate the rates or the city can ask them to leave.

16 **Motion to accept Resolution 003-2015 with the following changes: Rent is \$1,200/month with 10%**
 17 **increase per 5 year term; Verizon pays no termination fee and a 25 year lease; City can terminate with**
 18 **18 month notice after 15 years; City obtains sublease rights: J Baldwin, second – B Bagley**

- 19 ● J Russell asked about the sublease rights language needs to be included.
- 20 ● N Garcia read from the email paragraph 22 – sublease language *“LESSEE may sublet the*
 21 *Premises within its sole discretion upon notice to LESSOR; provided, any tenant that may desire*
 22 *to sublet space upon LESSEE's communication facility shall be required to lease separate ground*
 23 *space directly from LESSOR for placement of any ancillary equipment at the Property in order*
 24 *that LESSOR may have the opportunity to achieve a separate agreement with that entity related*
 25 *to any associated use of LESSOR's property.”*

26 **Vote: Yea: J Baldwin, B Bagley, J Drew**
 27 **Nay: R Call, J Russell**
 28 **Excused: None**
 29 **Abstained: None**

30 **Item No. 2. Ordinance No. 2015-009.** The Providence City Council will consider for adoption a
 31 temporary land use ordinance related to geologic hazards as defined in Utah Code Annotated 10-9a-
 32 103(14).

33 **Motion to accept Ordinance No. 2015-009 dealing with geographic hazards: J Baldwin, second – J**
 34 **Drew**

- 35 ● S Bankhead said this is a temporary ordinance with 6 months to finalize it. After being on site,
 36 the attorney felt there really is a potential for property damage, injury, etc. He felt the area
 37 demonstrated a significant risk to life and property. This gives the city the ability to adopt this
 38 temporary ordinance. We can refine it over the next few weeks. It will go through Planning
 39 Commission and a public hearing, but for now this will protect current and future property
 40 owners and the city. A final ordinance will be voted in later, but within the 6 months.
- 41 ● R Call said there are a lot of places on the east side of the city where fill and unstable soils could
 42 be a problem. This needs to be passed as there is an active problem right now.
- 43 ● Mayor said this eliminates the liability of the city.
- 44 ● J Baldwin felt it was also a safety issue for citizens who may be harmed by a slide.

45 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**
 46 **Nay: None**
 47 **Excused: None**
 48 **Abstained: None**

1 **Item No. 3. Ordinance No. 2015-007.** The Providence City Council will consider for adoption an
2 ordinance amending Providence City Code Title10 Zoning Regulations Chapter 4 Establishment of
3 Districts and Chapter 6 Use Regulations that clarify the Public Use zone. In addition to uses in the Public
4 Use zone, other Use Chart proposed amendments include adding upholstery, pet grooming, and making
5 some changes in the utility and related services section.

6 **Motion to accept Ordinance No. 2015-007: R Call, second – J Baldwin**

- 7 • S Bankhead said this will also be before the council again. The planning commission wanted to
8 see more information on bees and also review conditions for cell towers. Everything else is
9 ready to go.
- 10 • B Bagley asked about having cell towers in public parks. He has a concern that we will end up
11 with cell towers in residential areas.
- 12 • S Bankhead said this isn't being voted on tonight. Planning Commission wanted more time to
13 consider cell towers. The city will have control over where cell towers go since the city owns the
14 parks and the cell towers are by conditional use.

15 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**

16 **Nay: None**

17 **Excused: None**

18 **Abstained: None**

19 **Item No. 4. Ordinance No. 2015-008.** The Providence City Council will consider for adoption an
20 ordinance amending the Providence City zoning district(s) and zoning map by changing the zone of
21 Providence City parks to Public Use (PUB) as follows:

22 Alma H Leonhardt Park, 310 West 250 North, AGR to PUB

23 Braegger Park, 300 East 300 South, SFT to PUB

24 Brookside Park, 450 North 100 East (38 East Spring Creek Parkway), SFH to PUB

25 Cattle Corral Park, 100 East 200 South, SFT to PUB

26 Hampshire Park, 285 West 575 South, SFT to PUB

27 Meadow Ridge Park, 251 South 325 West, AGR to PUB

28 Uptown Park, 100 East 100 North, CGD to PUB

29 Von Baer Park, 350 East Center, SFT to PUB

30 Zollinger Park, 61 North 200 West, CGD to PUB

31 **Motion to approve Ordinance No. 2015-008: J Russell, second – R Call**

32 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**

33 **Nay: None**

34 **Excused: None**

35 **Abstained: None**

36 **Item No. 5. Ordinance No. 2015-003.** The Providence City Council will consider for adoption an
37 ordinance amending Providence City Code Title 4 Chapter 1 Nuisances including but not limited to
38 adding: Words, Terms, and Phrases; amending Duty of Maintenance of Private Property by adding
39 requirements regarding ditches, waterways, and compost piles; amending Storage of Personal Property
40 by adding: outdoor furniture restrictions, and unsheltered inoperable motor vehicle restrictions.

41 **Motion to change from action item to discussion item: J Drew, second – B Bagley**

42 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**

43 **Nay: None**

44 **Excused: None**

45 **Abstained: None**

- 46 • J Drew thanked Councilman J Baldwin for his work on this.

47 Council took a 5 minute recess.

- 48 • R Call asked if a couple of council members could just combine the two drafts before any

1 discussions took place. He felt it needed to be much simpler.

- 2 • J Russell felt the same way.
- 3 • J Baldwin had concerns about some of the rewrite from K Fife, he felt it was too restrictive.
- 4 • S Bankhead said there is an entire chapter on noise so she didn't think it should be discussed
- 5 tonight.
- 6 • Mayor asked about smoke, 4-1-3, J Baldwin's rewrite.
- 7 • J Baldwin said this came out of Midway where people have a lot of outdoor fires. He has a
- 8 neighbor that burns outdoor fires on a regular basis.
- 9 • J Drew said the county has jurisdiction over this from an enforcement stand point.
- 10 • Mayor and B Bagley felt it would be difficult to enforce.
- 11 • S Bankhead – heat and associated glare from solar devices – state code restricts municipalities'
- 12 ability to govern solar devices.
- 13 • J Drew said the verbiage “tends to depreciate or devalue surrounding property” is an important
- 14 issue that needs to be included in the ordinance.
- 15 • R Call said there are also buildings falling down, cows and horses in Providence that aren't
- 16 addressed in this and in his opinion those are bigger nuisances. He felt lot size was also
- 17 something to consider.
- 18 • J Baldwin suggested maybe each council member needs to list what they consider a nuisance
- 19 and start from that point.
- 20 • J Drew felt there needed to be a safety valve. People should be able to address why they are in
- 21 violation of the ordinance.
- 22 • Mayor asked council to make their list of nuisances and then come prepared to discuss them. He
- 23 would like them to consider K Fife's copy because he is looking at it from a legal point of view.
- 24 • J Russell also said personal rights need to be considered. Safety and health should be governing
- 25 issues.

26 **Staff Reports:** Items presented by Providence City Staff will be presented as information only.

- 27 • S Bankhead: Randy Eck, Tara Bankhead, Rob Stapley and Danny Wisner are at the rural water
- 28 conference in St. George, so Randy won't be reporting tonight.
 - 29 ○ Financial statements for January were handed out to each council member. On our
 - 30 website under Finance and Records, the reports are listed by month for public viewing.
 - 31 ○ Reviewed general fund.
 - 32 ○ Urban deer survey – this will go through the end of February. Reviewed the survey. She
 - 33 would have liked to have more people respond, but so far only about 113 have
 - 34 responded.
- 35 • B Bagley said regardless of the survey the ordinance needs to be in place.
- 36 • Mayor said if the game fence isn't fixed the deer will still keep coming down. The deer belong to
- 37 the state and the state needs to be responsible for the deer.
- 38 • R Call said the deer fence is on private property, not state or city. The state said they will fix the
- 39 fence.
- 40 • Mayor said the state has not been restricted by the property owners. They have permission
- 41 from property owners to access and fix the fence.

42 **Council Reports:** Items presented by the City Council members will be presented as informational only;

43 no formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting

44 of this agenda and the City Council determines that an emergency exists.

- 45 • B Bagley – no report.
- 46 • J Drew – he would like to see local elected representatives and contractors regularly scheduled
- 47 to be at council meeting so there is dialogue and a relationship created. He felt this could also

1 get the general public attendance increased. Attended Saturday's town hall meeting and
2 reported on that meeting where they discussed the transportation tax issue.

- 3 • S Bankhead reminded the Council that Utah League of Cities and Towns sends out an email daily
4 about what is happening. She asked the council members if they are receiving those emails.
5 Many of them are not. She will forward the emails on a daily basis.
- 6 • J Drew asked for the link so they can each sign up rather than having her forward emails daily.
- 7 • R Call – planning and zoning did a ride around of the city and in the process have proposed
8 bringing a road off Cove onto Canyon Road. People living in Cove subdivision are upset by this.
9 He felt this should come off the revised transportation plan.
- 10 • S Bankhead said this is on the agenda for planning commission tomorrow night as a public
11 hearing.
- 12 • J Russell – no report.
- 13 • J Baldwin – no report.
- 14 • Mayor Calderwood:
 - 15 ○ Attended Saturday's legislative session. He does not feel that our local road
16 maintenance issues are a primary concern for the Public Transportation Proposal. He
17 suggested the council members contact Representative Curt Webb.
 - 18 ○ The interlocal between the six cities: It was proposed that the group and our attorney
19 present our agreement to the Division of Water Quality staff - Walt Baker and his two
20 engineers. Our attorney may feel we should follow the proper protocol. Walt's boss has
21 been notified and talked to and it appears she is receptive to the inter-local
22 agreement with Logan.
 - 23 ○ Toured the city for optional piping routes for interlocal agreement with Nibley,
24 Providence and Hyrum. Nibley is willing to negotiate a feasible approach which will
25 benefit both cities. Working with Hyrum and Nibley is better than working with the six
26 cities.
 - 27 ○ Public radon meeting tomorrow at Springcreek Middle School. Presented by Bear River
28 Health.
 - 29 ○ SCWC now has notarized agreement plus an official change application to the state
30 water engineer.

31 **Motion to close city council: J Drew, second – R Call**

32 **Vote: Yea: B Bagley, J Baldwin, R Call, J Drew, J Russell**
33 **Nay: None**
34 **Excused: None**
35 **Abstained: None**
36

37 **No Executive Session.**

38 Meeting adjourned at 8:40 pm.

39 Minutes recorded by S Bankhead and prepared by C Craven.
40
41
42
43
44

45 _____
Don W. Calderwood, Mayor

Skarlet Bankhead, City Recorder

CHILD ABUSE PREVENTION MONTH PROCLAMATION

PROVIDENCE'S GREATEST ASSET IS OUR CHILDREN,
NOW AND FOR THE FUTURE.

WHEREAS; ALL CHILDREN deserve to grow up in a safe and nurturing environment to ensure they reach their full potential.

WHEREAS; CHILD ABUSE is a serious and growing problem affecting millions of our nation's children and thousands of children in Utah annually; and,

WHEREAS; CHILD ABUSE respects no racial, religious, class or geographic boundaries; and,

WHEREAS; IT IS IMPORTANT for all citizens of Providence to become more aware of child abuse and the critical need for prevention within their respective neighborhoods and community; and,

WHEREAS; DECREASING the occurrence of child abuse relies upon the efforts of every individual in order to make a positive, substantial impact upon the children of today, who will become the leaders of tomorrow;

THEREFORE; I, Don W. Calderwood, Providence City Mayor, do hereby proclaim April 2015 as Child Abuse Prevention Month. I support child abuse prevention efforts and education, and I encourage all citizens to actively help protect our children and work to create strong families within this community.

In witness whereof, I hereunto set my hand on this 24th day of March 2015

Providence, Utah



BEAR RIVER AREA ACCESS AND MOBILITY COUNCIL

What is **MOBILITY**?

“THE QUALITY OF MOVING FREELY”. To move around and get to the places you want and need to go.

What transportation options exist in your city to mobilize people with limited abilities (older adults & those with disabilities) or low income?

Some ideas:

Volunteer transportation

Walking/biking paths

Vehicle sharing program

Bring services to YOUR city

Coordination with other cities

Encourage work-at-home opportunities

Help needy find in-home services

Post helpful information and community resources on city website

Bear River Association of Governments
170 North Main, Logan UT 84321
435-752-7242
www.brag.utah.gov
Zac Covington, Mobility Manager
Allison Richman, Mobility Specialist

bearrivermobility.org

How accessible is your CITY?

Can people of all abilities safely enter and utilize your city buildings, businesses, churches and parks?

- Is accessibility maintained even in bad weather?
- Do crowds change the accessibility?
- Does time of day change the accessibility?

What's the plan?

Even if your city falls short of great access and mobility opportunities now, planning to incorporate changes is vital.

- Can a committee be called to focus on these issues, set goals and make changes.
- Survey residents in a monthly newsletter and request response be included with bill payment.
- Enlist the help of scout groups, Lion's Club etc.
- Create a list of needy individuals and make contact with them to learn of their needs & current support.
- Publicly recognize businesses that address access and mobility.
- Ask BRAG for resources to possible grants and loans for future projects.

One step at a time...



BRAG Programs Overview

Program	Service Offered	Income Eligibility	Long term?	Age?	Contact	Phone
One Time Assistance	One month's help with rent or mortgage payments.	125% of poverty	One time only.	18 +	Laura Nyberg	713-1433
Section 8 Housing	Ongoing rental assistance vouchers for low income.	50% of AMI	May be ongoing if needed.	18 +	Kent Watson	713-1410
First Time Homebuyer Program	Downpaymt./closing. Financial education & referral.	80% of AMI	For first home downpayment only.	18 +	Dolores Berkley	713-1402
Weatherization	Furnace repair or replaced, insulation, windows.	150% of poverty	Generally one time.	18 +	Lorin Kowallis	713-1451
H.E.A.T (Home Energy Assistance Target)	Financial help with Utilities Nov. to April each year.	150% of poverty	One time help every 12 months.	18 +	Susan Guy	713-1440
Major Home Repair	Home repairs.	80% of AMI	One time low-interest loans.	18 +	Jeff Kearn	713-1422
Emergency Home Repair	Needed repairs that threaten safety of home dwellers.	80% of AMI	One time grants up to \$2000.	18 +	Jeff Kearn	713-1422
Continuum of Care	Rent assist. For women of documented domestic violence.	125% of poverty	3 to 8 months.	Open	Stefanie Jones	713-1432
Aging Medicaid Waiver Program	Home health and services to help remain independent.	Medicaid Eligible	Yes.	65 +		713-1463
Alternatives	Home health and services to help remain independent.	150% of poverty	Yes.	18+		
Caregiver Support	Support Groups, family training, and resources.	none	1 year.	CG or CR over 60	Deborah Crowther	713-1462
Program	Service Offered	Income Eligibility	Long term?		Contact	Phone
Ombudsman	Advocate, Educate and Mediate for Seniors living in Facilities.	none	Per incident.	60+	Deborah Crowther	713-1462
New Choices Waiver	Help to reside independently in the community.	Medicaid Eligible	After 90 day nursing home stay.	over 21	Melissa L Shanna A	713-1463 713-1465

Economic Planning and Development	Assist. To area communities for grant seeking and planning	All BRAG communities			Brian C. Zac C.	713-1420 713-1423
B.E.A.R.	Business consulting re: disabilities, local laws and more		May be ongoing if needed.		Paul D. and	713-1429
Medical Voucher Program	Reimburse mileage to medical appts.	below 150% poverty	400\$ per year	60+/ or disabled	Zac C. or Allison R.	713-1423 713-1424
Mobility Voucher Program for Families	Mileage reimburse for rural families bettering themselves.	below 200% poverty	\$800 + yearly	Parents w/child	Zac C. or Allison R.	713-1423 713-1424
Bear River Heritage Area	Restoration and Preservation of History of Area				Lisa D. Goede	713-1426
Homelessness Prevention	Emergency help if evicted w/children in household	below 125% poverty	Per incident.	Parents w/child	Laura Nyberg	713-1433
VITA	Volunteer Income Tax Assistance Jan- April	income less than \$53,000	Yearly	all ages	Jodie	713-1431
Heat Crisis	Assistance if needed even after utilizing HEAT program	below 150% poverty	One time yearly	all ages	Laura Nyberg	713-1433
Senior Companions	Companion services, visiting, transport, non-medical friend.	Clients any income. Volunt. Low income	Yes.	clients 18+ vol. 55+	Debra S.	713-1467

Revised 12/24/2014

Resolution 007-2015

A RESOLUTION AMENDING THE PROVIDENCE CITY PUBLIC WORKS STANDARDS AND SPECIFICATIONS MANUAL BY ADDING DRAWING C-5C TEMPORARY BRIDGE FOR CURB & SIDEWALK.

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 Public Works Director recommends the City Council amend the Providence City Public Works Standards and Specifications Manual by adding Drawing C-8 Clear View Detail.

- The Public Works Director feels it is necessary to provide illustration for the clear view area described in Providence City Code Title 10 Zoning Regulations, Chapter 9 Supplementary Regulations within all Districts, Section 2 Corner Lot Obstruction.
- The City Engineer has prepared the attached drawing.

THEREFORE be it resolved by the Providence City Council:

- The attached Drawing No. C-8 shall be added to the Providence City Public Works Standards and Specifications Manual
- This resolution shall become effective immediately upon passage.

Passed by vote of the Providence City Council this 24 day of May, 2015.

Council Vote:

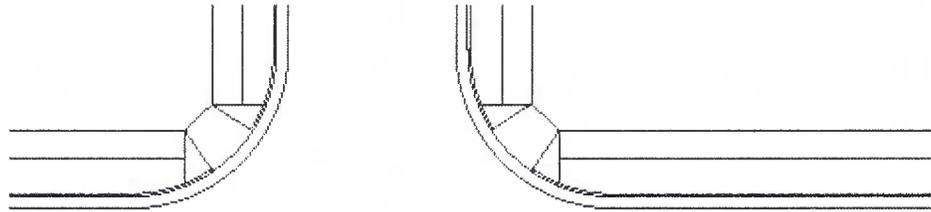
Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

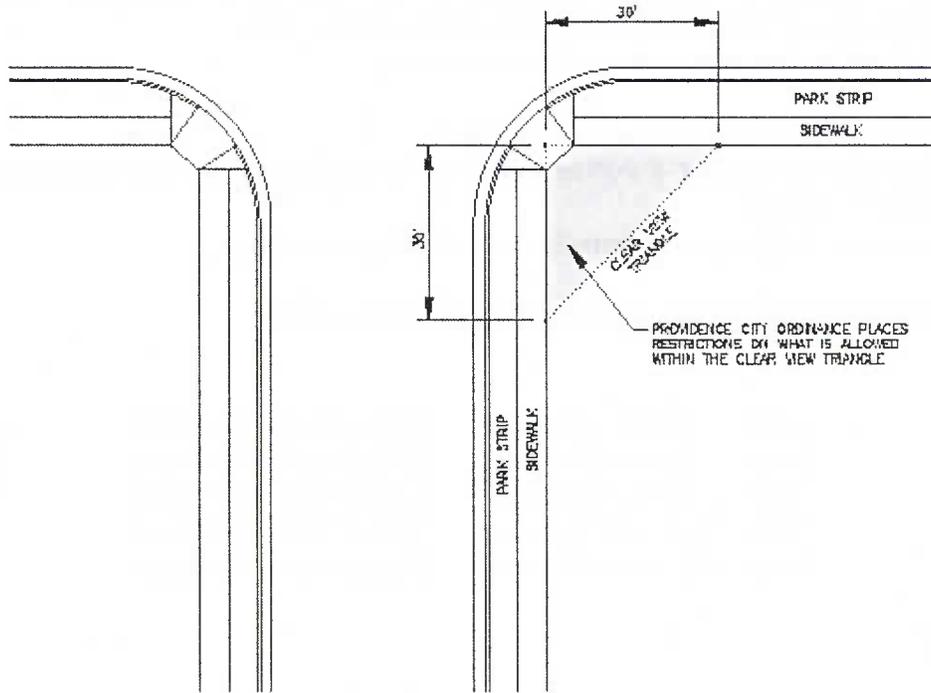
Don W Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder



STREET INTERSECTION



Providence City Public
Works Department

Clear View
Detail

DRAWING NO. C-8
CREATED 03-09-15

Resolution 009-2015

A RESOLUTION APPROVING THE DEVELOPMENT AND PUBLIC IMPROVEMENT INSTALLATION AGREEMENT FOR HILLCREST SUBDIVISION PHASE 4; A 9-LOT RESIDENTIAL SUBDIVISION LOCATED GENERALLY AT 519 EAST 800 SOUTH.

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, 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, soil content.

WHEREAS Paramount Development Inc, represented by Jared Nielson, is requesting approval of the attached Development and Public Improvement Installation Agreement for Hillcrest Subdivision Phase 4.

- Providence City Code 11-3-3:C states
 - Development Agreement: The developer shall enter into and sign an agreement with the City, which shall indicate a timetable for completion of the final improvements as listed in the preliminary and final plat. This agreement will be submitted to the City Council for approval.
- The Providence City Planning Commission will consider approval of the Final Plat for the Hillcrest Subdivision Phase 4 during their March 25, 2015 meeting.
- The construction drawings have been reviewed and approved by the City Engineer and Public Works Director.
- The attached Development Agreement has been reviewed by the Developer and the Development Review Committee.

THEREFORE be it resolved by the Providence City Council:

- The request by Jared Nielson shall be granted and the attached Development Agreement shall be approved.
- The Mayor and City Recorder are hereby authorized to execute said agreement.

Passed by vote of the Providence City Council this 25 day of March, 2015.

Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Providence City

Don W Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

**DEVELOPMENT AND PUBLIC IMPROVEMENT INSTALLATION
AGREEMENT FOR HILLCREST SUBDIVISION PHASE 4**

This DEVELOPMENT AGREEMENT (hereinafter "Agreement") is entered into this ____ day of March, 2015, by and between Paramount Development Inc, a Utah Corporation (hereinafter "Developer") and the City of Providence (hereinafter "City"), a municipal corporation.

RECITALS

- A. WHEREAS, the Developer is the owner of certain parcels of real property (the "Development Property") located within the corporate limits of the City;
- B. WHEREAS, the City is a Utah municipal corporation that has jurisdiction over the development of the Development Property;
- C. WHEREAS, the Developer has submitted to the City a final plat of the Development Property and the City's Land Use Authority has approved the final plat for the Development (hereinafter "Final Plat") in accordance with applicable Subdivision Ordinances of the City. A copy of the fully executed Final Plat is on file at the City Offices;
 - 1. Based on a decision by the State Ombudsman's office this development is being reviewed and approved under the lot size requirements for a Single Family Traditional (SFT) zone, even though the current zoning is Single Family Estate (SFE). The lots in the Hillcrest Subdivision shall be conforming lots for all purposes under the City's zoning and land use ordinances. Additionally, the parties acknowledge that, unless otherwise stated, reference to any statute, ordinance, specification, rule and/or regulation herein refers to that statute, ordinance, specification, rule and/or regulation effective as of June 14, 2005
- D. WHEREAS, the Developer has submitted to the City proposed construction drawings and the City has approved the same (hereinafter "Approved Construction Drawings"). A copy of the Approved Construction Drawings is on file at the City Offices;
- E. WHEREAS, the Developer, pursuant to this Agreement and the requirements associated with the approved Final Plat, Construction Drawings and relevant City Ordinances, agrees to construct certain public improvements, including ,but not limited to improvements in access, streets, water, sewer, utilities, parks, trails, street lights etc.;
- F. WHEREAS, pursuant to City Ordinances, Developer is required to furnish security of performance to secure the completion of all of the required Public Improvements and a warranty bond to protect against defects in those improvements;
- G. WHEREAS, the parties understand and intend that this Agreement is a "Development Agreement" within the meaning of, and entered into pursuant to the terms of Utah Code Ann. § 10-9a-102.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. PUBLIC IMPROVEMENTS

Developer agrees to construct all Public Improvements as required by City Ordinances and this

Agreement (hereinafter “Public Improvements”) and in conformance with the Construction Plans, Final Plat, Providence City Corporation Department of Public Works Standards and Specifications Manual (hereinafter “Standards and Specifications Manual”) and all other applicable City, State and Federal Codes and regulations. The parties agree and acknowledge that the following Public Improvements required in this Agreement and pursuant to the Final Plat and Approved Construction Drawings are lawful exactions under Utah Code Ann. § 10-9a-508 (2009).

- 1.1 Street Improvements.** The Developer agrees to construct the following street improvements as indicated on the Final Plat and Approved Construction Drawings.
 - 1.1.1 560 East.** The Developer agrees to construct a temporary turn-around and grant an easement for said turn-around on the east side of 560 East, adjacent to Lot 33. The temporary turn-around easement and all associated signs and markings will remain in place until the 560 East continues to the south and the turn-around is no longer needed. The owner of the property on which the temporary turn-around easement is located will be responsible for maintaining said turn-around, signs, and markings. This is an off-site improvement that is necessary for this Phase.
 - 1.1.2 530 East.** The Developer to construct 530 East as indicated on the Final Plat and Approved Construction Drawings. Because this street is less than 150-feet in length, a temporary turn-around will not be required with this Phase. Do we want to restrict driveway placement?
 - 1.1.3 800 South.** The Developer to construct 800 South as indicated on the Final Plat and Approved Construction Drawings.
 - 1.1.4** This phase completes the number of lots in a development that are allowed without a second access into/out of the development. The next phase will have to provide for a second access.
- 1.2 Culinary Water Improvements.** Developer agrees to install the following culinary water improvements in accordance with the Standards and Specifications Manual and as shown on the Approved Construction Drawings:
- 1.3 Fire Protection.** Developer agrees to install fire hydrants and lines in accordance with the requirements and standards set forth by the fire authority having jurisdiction, Standard and Specifications Manual and as shown on Approved Construction Drawings. The Developer also agrees to control weeds, trash, and other debris on site and all vacant lots in accordance with Providence City Code Title 4 Public Health and Safety until such time that Developer no longer holds an ownership interest in the site.
- 1.4 Sanitary Sewer Improvements.** Developer agrees to install the following sanitary sewer improvements in accordance with the Standards and Specifications Manual and as shown on the Approved Construction Drawings:
 - 1.4.1 Inspection at Developer’s Expense.** Developer acknowledges and agrees that the installed sanitary sewer improvements must be inspected before the trench is backfilled. Developer agrees that it will request an inspection and will be responsible for payment for the same.
 - 1.4.2 Acceptance.** Before the sanitary sewer improvements will be accepted by the City, the Developer, at its own expense, shall visually image the entire line and will label and furnish an acceptable copy of the media to the City. Developer acknowledges and agrees that the City must accept the test results prior to any unit being connected to the line and before asphalt is installed. Test results must

be accepted by the City prior to the acceptance of the minimum improvements.

1.5 Water Requirement. Pursuant to Providence City Ordinance 11-5-8 that was in effect as of June 14, 2005, Developer agrees to convey to the City 3 shares of Spring Creek Water Company Stock, or pay a fee in the amount of \$3,000 which payment is made in lieu of dedicating 3 water shares valued at \$1,000 per share. Phase 4 contains 3.03 acres.

1.6 Irrigation Waterways, Private Laterals

1.6.1 Private Laterals. Developer acknowledges and agrees that irrigation ditches within the City are private water laterals and the City has no responsibility or liability associated with the location and function of the same. Likewise, Developer acknowledges and agrees that the City has no responsibility or liability for any changes in irrigation waterways or assumed waterways right of way.

1.6.2 Maintenance and Repair. Developer acknowledges and agrees that the maintenance and repair of the irrigation waterways is the sole responsibility of the irrigation Water Company and/or Developer. Likewise, Developer acknowledges that the City has no responsibility or liability for the proper maintenance and repair of the irrigation waterways and should the waterway fail for any reason, including but not limited to design, vandalism, acts of nature, and/or negligent repair or maintenance.

1.6.3 Existing Waterways. Developer agrees to locate and protect existing irrigation waterways and re-route and/or repair as necessary.

1.7 Parks and Trails. Not Applicable.

1.8 Landscaping. Not Applicable.

1.9 Street Lighting. Developer agrees to install street lights in Development Property in locations determined by the City. Developer agrees to pay for any and all costs associated with the purchase and installation of the street lights and all related materials. Developer is responsible for all necessary coordination with the power company relative to the installation of the street lights. Developer agrees the underground improvements necessary for street lighting will be completed prior to or concurrently with laying the asphalt.

1.10 Street Signs. The Developer agrees to pay for the cost to purchase and the installation of roadway signs as required by the Public Works Director; including but not limited to the following signs: 2 street blades for intersection of 530 East and 800, 2 road closed assemblies (1 for south end of 530 East, 1 for south end of 560 East), 1 no outlet sign for 530 East and 800 South, 1 yield sign for 530 East and 800 South, temporary turn around signs are the responsibility of the Developer. The City shall install the signs. Any temporary delineators and barriers required during construction will be furnished, installed, and maintained by the Developer.

1.11 Off Site Infrastructure Requirements. The parties acknowledge and agree that there is a clear, direct and substantial relationship between the impact caused by the Development

and the need for these offsite infrastructure improvements and the offsite improvements provided for in this Agreement are roughly equivalent, both in nature and extent, to the impact of the Development.

1.11.1 Berm east of the Development's east boundary for the north/south length of the Development installed with Phase 3. See 2.3.4 of this Agreement.

1.11.2 560 South Temporary Turn-Around. See 1.1. Street Improvements Item 1. above.

SECTION 2. CONSTRUCTION PERIOD

- 2.1 Two Year Construction Period for Completion of Public Improvements.** Pursuant to Providence City Code § 11-5-3, construction of the Public Improvements must be completed within two years of the date the Approved Construction Drawings were signed by the City Engineer. Developer agrees to complete all required Public Improvements to the furthestmost structure no later than the 31 day of March, 2017.
- 2.2 Pre Construction Meeting.** Developer agrees to schedule and attend a Pre-Construction Meeting with the general contractor for the Development and City Staff prior to beginning any construction in the Development, including grading and trenching. Developer agrees to notify the general contractor and all appropriate subcontractors for the Development of their required attendance at the Pre Construction Meeting and that no construction can commence until after that meeting.
- 2.3 Storm Water Control/Best Management Practices.**
- 2.3.1 Storm Water System.** Developer will comply with all storm water requirements in Title 7, Chapter 8 of the Providence City Code and shall install a storm water system in accordance with the Providence City Corporation Department of Public Works Standards and Specifications Manual and as shown on the Approved Construction Drawings.
- 2.3.2 Best Management Practices.** Developer agrees to comply with all relevant best management practices identified in the Storm Water Pollution Prevention Plan.
- 2.3.3 Maintenance of Infrastructure.** Developer agrees to perform routine maintenance of infrastructure as required by the City's Public Work's Director while the development is under construction and until the development is accepted by the City. Such maintenance may include, but is not limited to snow removal, cleaning of gutters and drop boxes, and maintaining water facilities.
- 2.3.4 Berm along East Boundary.** As part of Phase 3 the Developer agreed to install a berm on the east side of the east boundary for the north/south length of the development as shown on the amended storm water plan.
- 2.4 Sale of Lots/Building Permits.** The Developer may sell lots within the Development and the City may issue building permits in accordance with Providence City Ordinance § 11-5-2 and Utah State Code § 10-9a-802.
- 2.5 As Built Construction Plans.** Developer agrees to provide the City with accurate as built drawings as required by Providence City Code § 11-5-3(B).

SECTION 3. INSPECTION, ACCEPTANCE AND WARRANTY PERIOD FOR PUBLIC IMPROVEMENTS

- 3.1 Inspection.** Pursuant to Providence City Code § 11-5-3, Developer agrees to request an inspection of all Public Improvements by the City at the completion of construction, or prior to the end of the two year construction period identified in § 2.1.
- 3.2 Acceptance.** The parties acknowledge and agree that the Development will not be accepted by the City until the City Engineer has provided the parties with a signed statement that the Public Improvements have been completed. Developer agrees to request this statement from the City Engineer upon completion of the Development.
- 3.3 Warranty Period.** Pursuant to Providence City Code § 11-5-5, Developer agrees to provide the City with a one (1) year written guarantee for all Public Improvements wherein Developer agrees to repair or replace any and all Public Improvements that are determined by the City to be defective within the one (1) year warranty period.

 - 3.3.1 Contents of Guarantee.** Developer shall warrant that the Public Improvements shall remain in good condition and free from all defects in performance, materials and workmanship during the Warranty Period except where such damage or defects are caused by verified acts of misuse, vandalism, or negligent acts of parties other than those associated in any way with the design, construction, and/or materials used in Development, including but not limited to Developer, subcontractors, engineers, consultants etc.
 - 3.3.2 Warranty Period.** The Warranty Period shall commence upon the date of written acceptance of the Public Improvements by the City and shall expire one (1) year thereafter.

SECTION 4. SECURITY OF PERFORMANCE

- 4.1 Public Improvement Completion Security.** Pursuant to Providence City code § 11-5-7 and in order to assure the City that all Public Improvements are constructed in conformance with all relevant City ordinances regulations and standards, Developer agrees to provide security of performance. In the event that Developer fails to fulfill its obligations under the Agreement, Final Plat, Approved Construction Drawings or relevant City, State or Federal Code, the City, in its sole discretion, shall have the right to construct or cause to be constructed any and all incomplete Public Improvements.

 - 4.1.1 Amount Required.** Developer agrees to provide security of performance in a form that is acceptable to the City and in the amount of \$216,536, which amount is not less than 110% of the reasonable value of the Public Improvements as determined by the City Engineer.
- 4.2 Foreclosure on Security.** In the event the Developer fails to pay the City within sixty (60) days of receipt of the City's written demand for payment, the City may foreclose on the Public Improvement Completion Security; provided, however, the City may foreclose or otherwise take any necessary steps prior to the end of this sixty (60) day period to protect the City's claims in the security from lapsing or expiring.

 - 4.2.1 Costs/Indemnification.** Developer shall be liable to the City for any and all costs

incurred by the City associated with the construction of any and all incomplete Public Improvements, including, but not limited to engineering, legal and contingent costs together with any damages which the City may sustain on account of Developer's failure to fulfill its obligations. The Developer agrees to indemnify the City for any and all damages incurred associated with any and all incomplete Public Improvements.

SECTION 5. WARRANTY BOND

- 5.1 Warranty Bond.** Pursuant to Providence City Code § 11-5-7(A), Developer agrees to tender to, and name the City as beneficiary to, a three year Warranty Bond.
- 5.1.1 Amount Required.** Developer agrees to tender to the City a Warranty Bond in the amount of \$19,685, which amount is not less than 10% of the estimated cost of the construction of the Public Improvements.
- 5.2 Public Improvement Repair Notice.** In the event that the City discovers any defects in any of the Public Improvements during either the construction period or during the Warranty Period the City shall provide Developer with written notice of such defects.
- 5.2.1 Form of Notice and Time to Repair/Replace.** The notice furnished by the City shall be in substantially the same form as the form attached hereto as **Exhibit "A"**. Developer agrees to repair or replace the defective Public Improvement(s) within ninety (90) days of receipt of Public Improvement Repair Notice.
- 5.3 Foreclosure on Warranty Bond.** If Developer fails to repair or replace the defective Public Improvement to the satisfaction of the City and within the ninety (90) day time frame identified in § 3.3.1, the City may cause the defective Public Improvement(s) to be repaired or replaced and foreclose on the Warranty Bond. The City may, in its discretion, use the Warranty Bond funds for purposes of paying for the repair or replacement of the defective Public Improvement(s) or reimbursing the City for funds spent by the City for the repair or replacement of the defective Public Improvement(s).
- 5.3.1 Costs/Indemnification.** Developer shall be liable for any and all costs incurred by the City associated with constructing and/or repairing any and all defective or incomplete public improvements, including, but not limited to engineering, legal and contingent costs together with any damages which the City may sustain on account of Developer's failure to fulfill its obligations. The Developer agrees to indemnify the City for any and all damages incurred associated with any and all incomplete Public Improvements.
- 5.3.2 Deficiency.** Developer agrees to pay the City for any and all costs associated with the repair or replacement of defective Public Improvement(s) that are not paid for from the Warranty Bond. City must utilize all available Warranty Bond funds in paying for the cost of repair or replacement of defective Public Improvement(s) before seeking any deficiency amounts from Developer.
- 5.4 Public Safety.** The parties agree that the City may impose a time frame less than ninety (90) days upon Developer to repair or replace defective Public Improvements that the City reasonably determines poses a threat to public safety.

5.4.1 Notice. The City shall notify the Developer, by whatever means are reasonable under the circumstances, of the new time frame for which repair or replacement of the defective Public Improvement(s) must take place. In emergency situations that pose an immediate threat to public safety, the City may, without notice to Developer, immediately repair or replace any defective Public Improvement causing the emergency situation. The City shall notify the Developer as soon as reasonably possible under the circumstances about the emergency condition.

5.4.2 Developer's Obligation upon Receipt of Notice. Within 48 hours of receipt of the City's notice of the shorter time frame referenced in § 5.4.1, Developer shall provide the City with either reasonable assurances that the defective Public Improvement(s) will be repaired or replaced within that time frame or authorize the City to repair or replace the Defective Public Improvements. If the Developer fails to provide reasonable assurances or authorize the City to repair or replace the defective Public Improvement(s) within 48 hours of receipt of the City's notice, the City may elect to repair or replace the defective Public Improvement(s) and foreclose on the Warranty Bond for purpose of paying for the repair or replacement of the defective Public Improvement(s) or reimbursing the City for the same.

SECTION 6. CITY PARTICIPATION IN CONSTRUCTION COSTS OF IMPROVEMENTS

The parties agree and acknowledge that the City will not be sharing in the development costs for the Public Improvements with the Developer. The City does not have any obligation to pay, or reimburse, Developer for any costs associated with the Public Improvements. Likewise, the City does not have any obligation to construct any of the Public Improvements or furnish any labor and/or materials for the construction of the same.

SECTION 7. APPLICATION UNDER FUTURE LAWS

Without waiving any rights granted under this Agreement, Developer may at any time choose to submit a development application for some or all of the Development Property under the City's future laws in effect at the time of that application. Any Development application submitted under the City's future laws shall be governed by all portions of the City's future laws related to the development application.

SECTION 8. EXPIRATION OF FINAL PLAT DEVELOPMENTAL RIGHTS

Pursuant to Providence City Ordinance § 11-3-3, an approved Final Plat will be void if it is not recorded within one (1) year of approval of this Agreement by the City Council. Developer agrees and acknowledges that any vested right to proceed with the development of the Development Property will terminate upon the expiration of the Final Plat.

SECTION 9. MISCELLANENOUS

The following provisions are an integral part of this Agreement:

9.1 Entire Agreement/Amendment. With respect to the subject matter of this Agreement, this Agreement and other documents and instruments identified or contemplated by this Agreement constitute the parties' entire agreement, and may not be altered, modified or amended except as identified herein. All prior and contemporaneous agreements,

arrangements and understandings between the parties respecting the subject matter of this Agreement are hereby superseded and rescinded.

- 9.2 Term of Agreement.** The term of this Agreement shall be until **[20 year term]**. If as of that date Developer is not in default, or if any such default is not being cured, then this Agreement shall be automatically extended until **[30 year from date of agreement signed]**. This Agreement shall terminate automatically at build out, meaning the completion of all construction on all of the Project pursuant to the Final Plat, Approved Construction Drawings and this Agreement. The parties acknowledge and agree that the term of this Agreement does not alter or impact in any way the time restraints and deadlines prescribed in City ordinances or Utah State Code and Developer acknowledges that time restraints and deadlines prescribed in City ordinances or Utah State Code will supersede the term of this Agreement.
- 9.3 Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 9.4 Counterparts.** This Agreement may be executed in counterparts, and the delivery of an executed signature page via facsimile shall have the same force and effect as the delivery of an executed original.
- 9.5 Captions.** The headings contained in this Agreement are for reference purposes only and shall not limit, expand or otherwise affect the construction of this Agreement.
- 9.6 Severability.** If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of the remaining provisions of this Agreement.
- 9.7 Governing Law and Venue.** The parties agree that this Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Any legal action involving a dispute concerning the interpretation or enforcement of this Agreement shall be brought only in the First Judicial District Court, County of Cache, State of Utah.
- 9.8 Recitals and Exhibits.** All factual recitals set forth herein and referenced or attached exhibits shall be considered a part of this Agreement.
- 9.9 No Third Party Rights/No Joint Venture.** This Agreement does not create a joint venture relationship, partnership or agency relationship between the City and the Developer. Further, the parties do not intend this Agreement create any third-party beneficiary rights. The parties acknowledge that the City has no interest in, responsibility for or duty to any third parties concerning the Public Improvements unless the City has accepted the dedication of such Public Improvements.
- 9.10 No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of that party to exercise at some future date any such right or other right it may have.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein written above.

City of Providence

By: _____
Don W. Calderwood, Mayor

Attest: _____
Skarlet Bankhead, Recorder

STATE OF UTAH)
 :
County of Cache)

On the _____ of March 2015, personally appeared before me, Don W. Calderwood, and Skarlet Bankhead, who did say that they are the Mayor and City Recorder respectively of Providence, Utah, a Utah municipal corporation, and that the said instrument was signed in behalf of said corporation by authority of a resolution of the City Council and the aforesaid officers acknowledged to me that said corporation executed the same.

Notary Public

PARAMONT DEVELOPMENT INC.

By: _____
Its: _____

STATE OF UTAH)
 :
County of _____)

On this _____ day of March, 2015 personally appeared before me,

_____ who is personally known to me
_____ whose identity I proved of the basis of _____
_____ whose identity I proved on the oath/affirmation of _____,
To be the signer of the above document and he/she acknowledged that he/she signed it.

Notary Public
Commission Expires: _____

EXHIBIT A
Form of Public Improvement Repair Notice

[City of Providence Letterhead]

PUBLIC IMPROVEMENT REPAIR NOTICE
_____ **Subdivision**

[Date]

Re: Notice to Replace or Repair Defective Public Improvements

Dear _____:

This is to notify you that pursuant to an inspection by the City of Providence of the Public Improvements installed by you in accordance with that certain PUBLIC IMPROVEMENT INSTALLATION AND DEVELOPMENT AGREEMENT (the "Public Improvement Agreement") dated _____, 20__, the City of Providence has determined that certain Public Improvements installed by you are defective and require either repair or replacement. The defective Public Improvements are as follows:

[Set forth in detail the nature and extent of the defective Public Improvements]

You are hereby put on notice that unless you either repair or replace the defective Public Improvements as required by this Public Improvement Repair Notice within ninety (90) days *[or state a shorter time frame if the nature of the defective public improvements poses a health and/or safety hazard if not repaired before the 90 day period]* after your receipt of this Public Improvement Repair Notice, weather permitting, the City shall cause the Public Improvements to be repaired or replaced as set forth herein and shall draw upon the Developer Warranty Bond Funds deposited in accordance with the terms and conditions of the Public Improvement Agreement to reimburse the City for the cost of the repairs or replacement of said Public Improvements.

Sincerely Yours,
Providence City,

By:

Print Name

1 Ordinance No. 2015-010

2
3 AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 11 SUBDIVISION REGULATIONS BY
4 CHANGING "DEVELOPMENT REVIEW COMMITTEE (DRC)" TO "CITY EXECUTIVE STAFF".

5
6 WHEREAS UCA § 10-9a-102.(2) states ". . . municipalities may enact all ordinances, resolutions,
7 and rules and may enter into other forms of land use controls . . ." and

8
9 WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote
10 the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality
11 and its present and future inhabitants and businesses, to protect the tax base, to secure
12 economy in governmental expenditures, to foster the state's agricultural and other industries, to
13 protect both urban and nonurban development, to protect and ensure access to sunlight for
14 solar energy devices, to provide fundamental fairness in land use regulation, and to protect
15 property values in areas that may be considered sensitive, including but not limited to fire
16 danger, slope, soil content.

- 17 • Providence City staff prepared the attached code amendment.
- 18 • Planning Commission studied the proposed amendment and held a public hearing on
- 19 February 11, 2015, prior to making a recommendation.
- 20 • Providence City Planning Commission took the following action on February 25, 2015:
- 21 • *Item No. 2. Proposed Code Amendment. The Providence City Planning Commission*
- 22 *will consider for recommendation to the Providence City Council proposed*
- 23 *amendments to Providence City Code Title 11 Subdivision Regulations by changing*
- 24 *"Development Review Committee (DRC)" to "City staff".*
- 25 • *Motion to list the city administrator, public works director, city engineer, public*
- 26 *works secretary, zoning personnel, mayor and council member as the review*
- 27 *staff, hereafter named "City Executive Staff". W Simmons, second – S Sanders*
- 28 *Vote: Yea: L Hogge, L Raymond, S Sanders, W Simmons*
- 29 *Nay: K Allen*
- 30 *Excused: None*
- 31 *Abstained: None*

32
33 WHEREAS the City Council considered the following:

34 Findings of Fact:

- 35 ○ Providence City Code (PCC) 10-1-5:A. states changes and amendments to this
- 36 Zoning Title shall be done in accordance with state law.
- 37 ○ UCA § 10-9a-501 states the legislative body may enact land use ordinances and
- 38 a zoning map consistent with the purposes set forth in in this chapter.
- 39 ○ UCA § 10-9a-502 Requires the planning commission provide notice and hold a
- 40 public hearing on a proposed land use ordinance or zoning map; and prepare
- 41 and recommend to the legislative body a proposed land use ordinance and
- 42 zoning map that represent the planning commission's recommendation.
- 43 ○ UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or
- 44 within the zoning district; or (c) any other provision of a land use ordinance.

45 Conclusions of Law:

- 46 ○ The proposed code amendment is consistent with the above listed Findings of
- 47 Fact.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Conditions:

- None.

THEREFORE be it ordained by the Providence City Council

- The attached code amendment shall be approved based on the findings of fact, conclusions of law, and conditions listed above and the recommendation of the Providence City Planning Commission.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 24 day of March 2015.

Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

Don W. Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

CHAPTER 3

PLAT PROCEDURES AND REQUIREMENTS

SECTION:

- 11-3-0: Dependent Subdivisions (Ordinance Modification 002-00, 01/25/00)
- 11-3-1: Sketch (Concept) Plan
- 11-3-2: Preliminary Plat
- 11-3-3: Final Plat
- 11-3-4: Repealed
- 11-3-5: Building Lots and Building Permits
- 11-3-6: All Provisions, Timelines, Expiration Dates, Etc.
- 11-3-7: Building Lots and Building Permits
- 11-3-8: Lot Consolidation/Lot Line Adjustment in a Recorded Subdivision

11-3-0: **DEPENDENT SUBDIVISIONS:** A subdivision or phase that is dependent upon another subdivision and/or phase for access or public works improvements shall not receive approval, conditional or otherwise, for the final plat until the Final Plat and construction documents for the independent subdivision or phase are approved, substantial completion inspection performed, and the items listed on the substantial completion inspection punch list are competed. Changes will place the dependent subdivision or phase on hold until all modifications to the independent subdivision are approved. (Ordinance Modification 002-00, 01/25/00)

A. Exception: If the Land Use Authority for Subdivisions determines for good cause that any phase of plan/plat approval for the dependent subdivision would be inadequate to protect the public health, safety, and welfare, the dependent subdivision shall not receive approval, conditional or otherwise, for any phase of plan/plat until the Final Plat and construction documents for the independent subdivision or phase are approved, substantial completion inspection performed, and the items listed on the substantial completion inspection punch list are competed. Changes will place the dependent subdivision or phase on hold until all modifications to the independent subdivision are approved.

11-3-1: **CONCEPT PLAN:** A concept plan shall be submitted to the ~~Development Review Committee (DRC)~~ city executive staff (which may include the city administrator, public works director, city engineer, public works secretary, zoning personnel, mayor and council member) for review and compliance with the Providence City General Plan, and Title 10 and 11 of the Providence City Code.

A. Complete application: Providence City has thirty (30) days to review an application for completeness. At that time the City will provide a written notice of acceptance or denial to the developer and/or their agent. If the application is denied; professional fees for review may be billed.

1. In addition to lot and street layout, a concept plan shall show all non-developable sensitive areas and all potentially developable sensitive areas within the boundaries of the development and within one hundred feet (100') of the development.
2. The following roads do not require curb, gutter, and sidewalk: Grandview Drive and Foothill Drive in the Grand View Hills Subdivision; Canyon Road east of 400 East. 400 East from Canyon Road south to the City's south boundary line does not require curb, gutter, and sidewalk on the west side; curb, gutter, and sidewalk are required on the east side.
3. See the Downtown Street Cross-Sections C-1A in the Providence City Corporation Department of Public Works Standard Construction Drawings for profiles on all other streets.

B. Expiration:

1. Concept Plan Application. A concept plan application shall expire if it is determined by the City's land use authority that the developer and/or its agent did not proceed with reasonable diligence to meet any items/conditions prescribed in City ordinances and/or listed on the ~~DRC~~ city executive staff review comments; or
2. Approved Concept Plan. An approved concept plan shall expire if a complete preliminary plat application has not been submitted to the City by the developer and/or its agent within one (1) year after ~~DRC~~ city executive staff approves the concept plan.
3. An expired plan is considered withdrawn and any vested right to proceed obtained by the developer shall terminate.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55

11-3-2: **PRELIMINARY PLAT:** A preliminary plat application will not be accepted by the City without the City's written approval of the concept plan. The following procedure shall be followed in submittal and review of the preliminary plat:

- A. Preparation: The preliminary plat shall be prepared in accordance with all requirements of the City and shall include all proposed phases.
- B. Contents:
 - 1. Drawing Requirements: The title block of the preliminary plat shall include the following:
 - a. The proposed name of the development.
 - b. The section, township and range of the development.
 - c. The names, addresses, and contact information of the owners, developer(s), if other than the owners, and surveyors or and designers of the development.
 - d. Scale of drawing and north arrow.
 - 2. Existing Conditions: The preliminary plat shall also show:
 - a. The legal description basis of bearing, and total acreage of the proposed development, certified by a licensed land surveyor.
 - b. Location, street number and name of existing streets within one hundred feet (100) of the development and of all previously platted streets or other public ways, railroad and utilities rights of way, parks and other public open spaces, permanent buildings and structures, and corporate lines within and adjacent to the tract.
 - c. The location of all wells, proposed, active and abandoned, springs, and all reservoirs within the tract and to a distance of at least one hundred feet (100') beyond the development boundaries.
 - d. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe size, grades, manholes and accurate location.
 - e. Existing ditches, canals, natural drainage channels, open waterways, and proposed alignments or realignments within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries; and a letter, from the affected users indicating the plans are acceptable, must be submitted to the City.
 - f. Accurate boundary lines certified by a licensed land surveyor and ownership of adjacent parcels of land. (Subd. Ord., 1-24-1990)
 - g. By means of an overlay method or directly on the plat, vertical contour intervals of not more than two feet (2') or one foot (1') on predominantly level land.
 - h. A vicinity map shall show how the development is situated in its surrounding neighborhoods extending a minimum of two (2) blocks or more outward from the boundaries of the development. The vicinity map shall include all major, collector, standard and feeder streets within the area, both existing streets and those proposed on the Master Plan. (Subd. Ord., 1-24-1990; amd. Ord., 1-9-1996)
 - 3. Proposed Conditions: The preliminary plat shall also show;
 - a. The layout of streets showing location, widths and other dimensions of proposed streets (designated by actual or proposed names and numbers), crosswalks, alleys and easements.
 - b. The location for culinary water improvements, waste water improvements, storm drainage and street lights for all lots proposed within the development.
 - c. The layout, numbers, hazard setback, and typical dimensions of lots and square footage.
 - d. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the development.
 - e. Written statement by the design engineer verifying that all lots have an adequate buildable envelope with regards to hazardous slope, building, water, zoning setbacks, etc.
 - f. Easements for water, sewer, drainage, utility lines and other utilities.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55

- g. Typical street cross-sections and preliminary street grades if required.
- h. Copies of any agreements with adjacent property owners relevant to the proposed development.
- i. Location, function, ownership and manner of maintenance of common open space not otherwise reserved or dedicated for public use.
- j. A professionally prepared plat having been prepared on a minimum twenty inch by thirty inch (20" x 30") or maximum twenty-four inch by thirty-six inch (24" x 36") approved reproducible drafting medium.
- k. A signature block along the right-hand margin of the preliminary plat, providing for the following certifications or approvals:

(1) Prior to City review, an affidavit or certificate of clear title to the effect that the applicant is the owner of, or that he is authorized by the owner in writing to make application for, the land proposed to be subdivided. The affidavit or certificate shall state clearly in which status, a copy of said written authorization from the owner shall be submitted with the preliminary plat. A title report shall also be submitted which indicates in whom the fee simple title to such property is vested and any liens or encumbrances thereon. A statement from the property owner disclosing any options or unrecorded contacts/agreements associated with the property.

C. Submittal: Four (4) copies (20"x30" minimum , 24" x 36" maximum size) and one (1) 11" x 17" copy of the preliminary plat shall be submitted to the City for review a minimum of seven (7) days prior to the initial City review. The City will complete the first review within thirty (30) days. Each subsequent review is subject to an additional thirty (30) day review period. If all required information is not included, city has the right to refuse the package.

D. Staff Review: Upon review, the ~~Development Review Committee (DRC)~~ city executive staff will provide written comments, conclusions and recommendations to the Land Use Authority. (Subd. Ord., 1-24-1990; amd. Ord., 1-9-1996)

E. Approval: No preliminary plat shall be approved by the Planning Commission, the City Council, or any other designated Land Use Authority unless it complies with or can be shown that a final plat will be likely to comply with all the provisions set forth in the Providence City Ordinances. No preliminary or final plat shall be approved if a commitment-of-service letter has not been issued for the plat pursuant to Section 8-1-21.

1. A preliminary plat is not considered approved until all conditions have been satisfied and the plat has been signed by the City Engineer, Land Use Authority, and the Developer.

F. Complete application: Providence City has thirty (30) days to review an application for completeness. At that time the City will provide a written notice of acceptance or denial to the developer and/or their agent. If the application is denied, the application fee may be refunded; professional fees for review may be billed. To be considered complete, an application must contain the following:

- 1. a completed Providence City Application Form;
- 2. payment of the application fee;
- 3. the proposed preliminary plat and all required copies;
- 4. a title report shall also be submitted which indicates in whom the fee simple title to such property is vested and any liens or encumbrances thereon;
- 5. a copy of the City's written approval of the concept plan.

G. Expiration:

- 1. Preliminary Plat Application. A preliminary plat application shall expire if it is determined by the City's Land Use Authority that the developer and/or its agent did not proceed with reasonable diligence to meet any items/conditions identified in City ordinances and/or in ~~DRC~~ city executive staff review comments; or
- 2. Approved Preliminary Plat. An approved preliminary plat shall expire if a complete final plat application has not been submitted to the City by the developer and/or its agent within one (1)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55

year after approval of the preliminary plat.

- 3. An expired plat is considered withdrawn and any vested right to proceed obtained by the developer shall terminate.

11-3-3: **FINAL PLAT:** A final plat application cannot be submitted to the City prior to approval of the preliminary plat. The following information and a complete set of construction drawings shall be submitted for review:

- A. Preparation: The final plat shall be prepared in accordance with all the requirements of the City. The final plat shall be prepared by a land surveyor, licensed in the State. The top of the plat shall be either north or east, whichever accommodates the drawing best.
- B. Description And Delineation:
 - 1. The final plat shall show:
 - a. The name of the development as approved by the Land Use Authority.
 - b. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features.
 - c. An identification system for all lots, blocks and names of streets. Lot lines shall show dimensions in feet and hundredths.
 - d. The street address for each lot. Each street address shall be assigned by the City. The north and west sides of the streets shall be numbered odd and the south and east shall be numbered even.
 - e. True angles and distances to the nearest official US, State, County, or City monuments which shall be accurately described in the plat and shown by the appropriate symbols. All boundary, lot and other geometries (bearings, distances, curve data, etc.) on the final plat posed to an accuracy of not less than one part in five thousand (5,000).
 - f. Radii, internal angles, points or curvatures, tangent bearings and the length of all arcs.
 - g. Survey markers shall be set at all lot corners and shall be shown or noted on the plat.
 - h. The dedication to the City of all improvements which shall include, but shall not be limited to, streets, storm water system, water works, sewer works, etc., included in the proposed development.
 - i. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common use of all property owners.
 - j. A statement that all expenses involving the necessary improvements or extensions for a culinary water system, sanitary sewer system, gas service, electrical service, telephone service, cable television service, grading and landscaping, storm drainage systems, curbs and gutters, fire hydrants, pavement, sidewalks, signage, street lighting and other improvements shall be paid for by the developer(s).
 - k. All hazard setback(s)
 - l. A statement verifying that all lots have an adequate buildable envelope with regards to hazardous slope, zoning setbacks, etc.
 - m. A statement that the City will not issue any building permit for any lot until minimum improvements, as specified in Section 11-5-2 of this Title are complete.
 - n. Boundary descriptions of the development.
 - o. Standard forms for the following:
 - (1) A registered land surveyor's certificate of survey as applicable under State law.
 - (2) The owner's signature of dedication.
 - (3) A notary public's acknowledgment.
 - (4) The City Engineer's certificate of approval.
 - (5) The City's authority for the culinary water and the sanitary sewer system's signature
 - (6) The County Board of Health's certificate of approval if a septic tank system is used for sewage disposal.
 - (7) The Land Use Authority signature of approval.

- 1 (8) The City's signature of approval by the Mayor.
 2 (9) The City Attorney's certificate of approval.
 3 (10) A signed statement from each of the utility companies involved stating that they have
 4 reviewed the plat, that they approve the plat as it relates to their particular company,
 5 that they are in agreement with placing all of their utilities underground within the
 6 right-of-way as shown on the plans and are willing to provide the needed service for the
 7 development. Also included, if available, in said statements descriptions of any
 8 restrictions that will be imposed by the utility companies, any fees that will be assessed
 9 by the utility companies to install the utilities and any time tables that the utility
 10 companies might use to install their respective utilities.
 11 (11) The County Recorder's stamp of approval according to requirements prior to final plat
 12 approval.

13 2. The final plat shall also:

- 14 a. Be drawn to a scale of not less than one inch equaling one hundred feet (1" = 100') and shall
 15 indicate the base heading of true north.
 16 b. Be prepared on a minimum twenty inch by thirty inch (20"x30") maximum twenty-four inch
 17 by thirty-six inch (24" x 36") paper.
 18 c. Show a workmanlike execution in every detail. A poorly drawn or illegible plat is sufficient
 19 cause for rejection. (Subd. Ord., 1-24-1990)
 20 d. Final approved plat for recording shall be prepared on Mylar.
- 21 C. Development Agreement: The developer shall enter into and sign an agreement with the City, which
 22 shall indicate a timetable for completion of the final improvements as listed in the preliminary and
 23 final plat. This agreement will be submitted to the City Council for approval. (Ord., 4-9-1996)
 24
- 25 D. Submittal: Four (4) copies (20"x30" minimum, 24" x 36" maximum) and one (1) 11" x 17" copy of the
 26 final plat and construction drawings shall be submitted to the City for review a minimum of seven (7)
 27 days prior to the initial City review. The City will complete the first review within thirty (30) days. Each
 28 subsequent review is subject to an additional thirty (30) day review period. If all required information
 29 is not included, city has the right to refuse the package.
 30
- 31 E. Upon review, the ~~Development Review Committee (DRC)~~ city executive staff shall provide written
 32 comments, conclusions, and recommendations to the Land Use Authority.
 33
- 34 F. Approval: The final plat shall be approved by the Land Use Authority. The construction drawings shall
 35 be approved by the City staff. The development agreement shall be approved by the City Council.
 36 Prior to submitting the final plat for recording, the final plat shall be signed by the developer(s) and
 37 utility companies or a letter submitted with the final plat from the utility companies. All security
 38 bonds must be in place and the development agreement shall be signed by the developer(s). The City
 39 does not consider the final plat to be approved until the construction drawings are signed, the
 40 development agreement has been signed and all signatures are on the final plat. At this point, the
 41 developer(s) shall submit an electronic copy of the approved final plat and approved construction
 42 drawings.
 43
- 44 G. Expiration:
- 45 1. Final Plat Application. A final plat application shall expire if it is determined by the City's Land Use
 46 Authority that the developer and/or its agent did not proceed with reasonable diligence to meet
 47 any items/conditions identified in City ordinances and/or in ~~DRC~~ city executive staff review
 48 comments.
 49 2. Approved Final Plat. An approved final plat shall be void if it is not recorded within one (1) year of
 50 approval of the Development Agreement by the City Council.
 51 3. Approved Final Plat with Phasing. If the final plats are recorded in phases, subsequent final plats
 52 must be recorded within five (5) years of the recording of the previous plat. If a development fails
 53 to meet this requirement, new concept plan and preliminary plats must be submitted and
 54 approved before subsequent final plats can be submitted or approved.
 55 4. An expired plat is considered withdrawn and any vested right to proceed obtained by the

1 developer shall terminate.

2
3 **11-3-4: REPEALED**

4
5 **11-3-5: DOWNTOWN AREA DEVELOPMENT – FIVE (5) LOTS:** A development located in the
6 Downtown Area, as defined in 10-1-4 of this Code, consisting of five (5) lots or less; shall be subject to the
7 requirements listed in this Chapter.

8 A. Design Requirements:

- 9 1. Inner Block Development Prohibited. Lots must have 95 feet of frontage on a city street that
10 existed prior to September 1, 2006.
11 2. Right-of-way Improvements.
12 a. Widening or rebuilding of the adjacent city street may be required. Areas disturbed
13 by the extension of infrastructure, such as, but not limited to, water and/or sewer
14 service lines, must be repaired in accordance with the Department of Public Works
15 Standards and Specifications Manual.
16 b. Sidewalk. Sidewalk required along the frontage of the development
17 c. Curb & gutter, swales. Refer to the Downtown Area Street Cross Section Booklet
18

19 **11-3-6: ALL PROVISIONS, TIMELINES, EXPIRATION DATES, ETC.** All provisions, timelines, expiration dates, etc.
20 listed in this Chapter apply to the developer, their successors, or assigns.
21

22 **11-3-7: BUILDING LOTS AND BUILDING PERMITS:** Building lots in the approved development may be sold
23 after the final plat has been recorded. The lots, however, shall have recorded restrictions placed upon them
24 stating that the City will not issue any building permit for any lot until minimum improvements, as specified in
25 Section 11-5-2 of this Title are complete. (Ord. 97-OM016, 8-12-1997)
26

27 **11-3-8: LOT CONSOLIDATION/LOT LINE ADJUSTMENT IN A RECORDED SUBDIVISION:** Lot consolidation/lot
28 line adjustment in a recorded subdivision plat is considered a minor revision of the subdivision.

29 A. A petition to have a plat amended shall be submitted to the ~~Development Review Committee (DRC)~~
30 **city executive staff** for review and compliance with the Providence City General Plan, and Title 10 and
31 11 of the Providence City Code.

- 32 1. Petition Requirements: In addition to the petition requirements listed in Utah State Code, a
33 petition for lot consolidation must contain a concept plan, drawn to a scale of not less than
34 one inch equaling one hundred feet (1"=100'), showing all existing structures and their
35 distance from the property lines on all lots involved in the consolidation.

36 B. The Planning Commission is the land use authority for altering or amending a subdivision plat.

37 C. The Planning Commission, if required by state code, shall hold a public hearing within 45 days after
38 the day on which the petition is filed.

39 D. General Requirements:

- 40 1. All conditions applicable to the original subdivision remain in full force and effect.
41 2. Any dedicated street, sidewalk, drainage feature, utility easement, or other characteristic
42 found in the original subdivision remains in full force.

43 E. Geometric Requirements:

- 44 1. When combining two lots which share a common boundary, the common boundary in plan
45 view must be a minimum of fifteen feet.
46 2. When combining two or more lots which do not share a common boundary such a boundary
47 must be created for the consolidated lot by the use of abutting connector parcel(s).
48 a. The connector parcel(s) must be a minimum width of fifteen feet in plan view at its
49 narrowest point.

50 F. Final Plat for Recording:

- 51 1. Upon approval of the Planning Commission, the petitioner shall prepare an amended final
52 plat for recording. The final plat shall include standard forms for the following:
53 a. A registered land surveyor's certificate of survey as applicable under State law.
54 b. The owner's signature of dedication.
55 c. A notary public's acknowledgment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

- d. The City Engineer's certificate of approval.
 - e. The City's authority for the culinary water and the sanitary sewer system's signature
 - f. The County Board of Health's certificate of approval if a septic tank system is used for sewage disposal.
 - g. The Land Use Authority signature of approval.
 - h. The City's signature of approval by the Mayor.
 - i. The City Attorney's certificate of approval.
 - j. A signed statement from each of the utility companies involved stating that they have reviewed the plat, that they approve the plat as it relates to their particular company.
 - k. The County Recorder's stamp of approval according to requirements prior to final plat approval.
2. Expiration: An approved amended final plat shall be void if it is not recorded within one year from the date the Planning Commission granted approval.

Ordinance No. 2015-011

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 10 ZONING REGULATIONS, CHAPTER 1, SECTION 1 USE CHART, BY ALLOWING RADIO/TV/CELLULAR TOWER AS A CONDITIONAL USE IN THE PUBLIC USE DISTRICT

WHEREAS UCA § 10-9a-102.(2) states “. . . municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls . . .” 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, soil content.

- Providence City staff prepared the following code amendment.

	AGR	SFE	SFL	SFT	SFR	SFM	SFH	SMH	MFR	MFM	MFH	CND	CGD	CHD	MXD	PUB
7 Radio/TV/cellular tower													c			c

- Planning Commission studied the proposed amendment and held a public hearing on February 11, 2015 prior to making a recommendation.
- Providence City Planning Commission took the following action on February 25, 2015:
 - *Item No. 3. Proposed Code Amendment. The Providence City Planning Commission will consider for recommendation to the Providence City Council proposed amendments to Providence City Code Title 10 Chapter 6 Use Regulations. Use Chart proposed amendments include allowing Radio/TV/cellular tower as a conditional use in the Public Use District, and changes to beekeeping.*
 - *Motion to approve cell tower as a conditional use in the Public Use zone: S Sanders, second – W Simmons*
 - Vote: Yea: K Allen, L Hogge, L Raymond, S Sanders, W Simmons*
 - Nay: None*
 - Excused: R James*
 - Abstained: None*
- The City Council considered the following:

Findings of Fact:

 - Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title shall be done in accordance with state law.
 - UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in in this chapter.
 - UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a proposed land use ordinance or zoning map; and prepare and recommend to the legislative body a proposed land use ordinance and zoning map that represent the planning commission’s recommendation.
 - UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Conclusions of Law:

- The proposed code amendment is consistent with the findings of fact listed above.

Conditions:

- None

THEREFORE be it ordained by the Providence City Council

- The above code amendment shall be approved based on the findings of fact, conclusions of law, and conditions listed above and the recommendation of the Providence City Planning Commission.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this 24 day of March 2015.

Council Vote:

Bagley, Bill	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Baldwin, Jeff	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Call, Ralph	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Drew, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent
Russell, John	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Excused	<input type="checkbox"/> Abstained	<input type="checkbox"/> Absent

Signed by Mayor Don W Calderwood this day of 2015.

Providence City

Don W. Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

CHAPTER 1

NUISANCES

SECTION:

- 4-1-1: ~~Nuisances Defined; Declaration.~~
- 4-1-2: ~~Nuisances on Property Responsibility for Nuisances.~~
- 4-1-3: ~~Maintenance of Nuisance Prohibited; Enumeration of Nuisances.~~
- 4-1-4: ~~Abatement Procedure~~

4-1-1: **NUISANCES DEFINED; DECLARATION:**

A. ~~DEFINITION: Pursuant to Utah Code 78B-6-1101. A~~

~~For purposes of this chapter, a nuisance is anything which occurs within the city and meets any one or more of the following definitions:~~

Formatted: Indent: First line: 0"

1. ~~Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action. (Ordinance No 014-2008, 11/11/2008)~~
2. ~~Any item, thing, manner, or conditions whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.~~
3. ~~Anything which (a) annoys, injures, or endangers the comfort, repose, health, or safety of others; or (b) offends the public decency; or (c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or (d) in any way renders other persons insecure in life or in the use of property.~~
4. ~~Any condition or use of property or premises or of building exteriors which are deleterious, injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following: (1) Lumber, junk, trash or debris; (2) Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use.~~
5. ~~Every other offensive situation, conduct or activity specifically enumerated elsewhere herein, including, but not limited to, those enumerated in Section 4-1-3, below.~~

Formatted: Indent: Left: 0.5"

Formatted: Indent: First line: 0"

~~B.4-1-2:- RESPONSIBILITY FOR NUISANCES. AUTHOR DEFINED:~~

~~Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the property owner, the landlord and/or his agent, the tenant and/or his agent, any person who causes, creates, contributes to, supports or permits a nuisance to occur or remain upon property, and any and all other persons having control, use, and/or occupation of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible therefore. In cases where there are more than one~~

Formatted: Indent: First line: 0"

~~responsible persons, the city may proceed against one, some, or all of them. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (1977 Code § 10-312)~~

~~G.4-1-3: DECLARATION OF NUISANCE; ENUMERATION OF NUISANCES: Made, Permitted or Allowed:~~

~~A. Every act or condition made, permitted, allowed or continued in violation of that falls within the definition of nuisance as provided in Section 4-1-1 of this Chapter, is hereby declared to be a nuisance and may be abated and, punished, and remedied as hereinafter provided. Included Nuisances: Nuisances include, but are not limited to:~~

~~B. Every situation, conduct or activity specifically enumerated and listed below constitutes a nuisance and may be abated pursuant to this ordinance (the listed examples are not exhaustive; a situation, conduct, or activity not listed below, but that falls within the definition of nuisance, shall also constitute a nuisance):~~

- ~~1. Befouling Culinary Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.~~
- ~~2. Privies, Cesspools, Septic Tanks: Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors or contamination to air or water.~~
- ~~3. Garbage Containers, Offensive: Permitting any garbage container to remain on premises when it has become unclean and offensive. The leaving of any garbage can or refuse container in the street other than on collection day, or for more than 12 hours before or after collection day.~~
- ~~4. Garbage Accumulation of Junk: Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon the property, or any private alley, yard or area. This includes the accumulation of used or damaged lumber; junk; scrap metal; machinery or machinery parts; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, boxes, barrels, bottles, cans, containers, cabinets, refrigerators, or other fixtures, equipment, products, or personal property stored so as to be visible from a public street, alley, or adjoining property.~~
- ~~5. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, kennel, or in any other building or area in which any animals are kept.~~
- ~~6. Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.~~
- ~~7. Discharging Offensive Water or Liquid Waste: Discharging or placing any offensive water, chemical spray, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which, as the result~~

Formatted: Indent: First line: 0"

Formatted: Strikethrough

of continued discharge, will render the place of discharge offensive or likely to become so.

8. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.
9. Flies and Mosquitoes: Having or permitting upon any premises any fly or mosquito-producing condition.
10. Ablutions near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.
11. Boarding House or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.
12. Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the City.
13. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
14. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the City Council. ~~(1977 Code § 10-313)~~
- ~~15. Offensive Condition or Refuse: Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property, or the keeping or storing of any refuse or waste matter which is visible from a public street, alley, or adjoining property, and whenever there is found any garbage, junk, used materials (including waste concrete, asphalt ect.) and merchandise, waste, inoperable motor vehicles, trash, rank and noxious weeds, or other unsightly or deleterious objects or conditions that are offensive to the order and economy of the city.~~
- ~~16. Outdoor Storage of Personal Property: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) that is visible from a public right-of-way, public street, sidewalk, or alley within the City is hereby declared to be a nuisance and dangerous to the public safety.~~
- ~~17. Outdoor furniture. Keeping furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to passersby in the public right-of-way, public street, sidewalk, or alley (for more than two (2) days in any six-month period). This shall include, but not be limited to, the placement, use, keeping, storage, or maintaining any furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way, public street, sidewalk or alley, and no owner, landlord, property manager, tenant, or other occupant shall permit any such activity to occur on property owned or managed by such person.~~

Formatted: Strikethrough

Formatted: Indent: Left: 0.5"

18. Unsheltered Inoperable Motor Vehicle. The unsheltered storage of an inoperable motor vehicle for sixty (60) days or more on private property in a manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way.

a. Exceptions. This restriction does not apply to any person who is conducting an automobile sales, storage, or repair enterprise operated in compliance with existing zoning regulations and other applicable law, when the storage is necessary to the operation of such business' enterprise.

Further, this restriction does not apply to an inoperable motor vehicle located in a garage or other fully enclosed building or placed behind screening of sufficient size, strength and density, such as a solid fence, to screen it from public view of a person standing upon any public street, alley, sidewalk, or right-of-way.

Formatted: Indent: Left: 1.5", First line: 0"

19. Improper Accumulations. Accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or adjoining property.

Formatted: Indent: Hanging: 1"

20. Improper Maintenance. Buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair.

21. Dangerous Conditions. Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any excavation, hole, well, pit, basement, cellar; or any land, lot, or yard which, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any harm, inconvenience, discomfort, damage, or injury to the public or to any one or more individuals.

DC. ENUMERATION OF NUISANCES: The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this Chapter. ~~(1977 Code § 10-314)~~

ED. RESTROOM OR SEWER FACILITIES: All restroom or sewer facilities shall be constructed and maintained in accordance with Utah law and City ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed. (1977 Code § 10-315; 1998 Code)

FE. RESTRICTIONS ON BLOCKING WATER:

1. Obstructions: It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow there from, or to become unsanitary.
2. Subject to Abatement: Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement. (1977 Code § 10-316)

Formatted: Indent: Left: 0", First line: 0"

F. GENERAL DUTY OF MAINTENANCE OF PRIVATE PROPERTY: No person owning, leasing, occupying

or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. The failure of a person owning, leasing, occupying or having charge of any premises to comply with such general duty of maintenance is a nuisance that may be abated under this chapter. In connection herewith, a person owning, leasing, occupying or having charge of any premises, is subject to the following:

1. No owner or occupant of any premises which are adjacent to any portion of a ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.
2. An occupant of a residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained to prevent putrefying or attracting insects or animals, as such shall constitute a nuisance hereunder.

G. PUBLIC NUISANCES NOT EXEMPT. Nothing in this Section shall be construed to permit activities, conditions, or situations that would constitute a public nuisance or would otherwise be unlawful under applicable law absent the existence of this Section. Furthermore, nothing in this Section shall be construed to limit the city's rights and remedies to deal with public nuisances under applicable law.

Formatted: Indent: Left: 0", First line: 0"

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0", First line: 0"

4-1-2: NUISANCES ON PROPERTY:

A. DEFINITION: For the purpose of this Section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

1. Lumber, junk, trash or debris.
2. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use. (1977 Code § 10-331; 1998 Code)

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5", No bullets or numbering

B. WORDS, TERMS AND PHRASES: The following words, terms and phrases, when used in this Chapter, shall have the meanings:

Brush Pile An accumulation of cuttings or dead portions of trees and shrubs.

Formatted: Indent: Left: 0", Hanging: 0.5"

Nuisance Officer The Providence City Nuisance Officer or a designated representative of the Nuisance Officer.

Comment [U1]: Has a nuisance officer been appointed? When we were dealing with this before there was no "nuisance officer."

Formatted: Indent: Left: 0", Hanging: 0.5"

Compost	A mixture consisting of decayed organic matter used for fertilizing and conditioning soil.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Ditch	Any channel, either man-made or natural, to carry water for drainage or irrigation, including its access and/or maintenance easement on either side.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Owner or Occupant	The owner of record or any agent or representative of such owner and any person entitled, by lease or tenancy, to possession of the premises.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Property	In addition to the owner's lot or tract of land whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easement of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Refuse	Solid and liquid wastes, except hazardous wastes, whether decayable or non-decayable, combustible, or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width, or breadth.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Rubbish	Non-decayable solid wastes of a large size, including but not limited to large pieces of wood, large cardboard boxes or parts, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition material, used lumber and other discarded or stored objects three (3) feet or more in length, width, or breadth.	← Formatted: Indent: Left: 0", Hanging: 0.5"
Unsheltered	Located outside a garage or other building in such a	← Formatted: Indent: Left: 0", Hanging: 0.5"

manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way.

Weed

An aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands and any other type of noxious weeds designated by the Utah Noxious Weed Act as amended or Cache County Weed District.

Formatted: Indent: Left: 0", Hanging: 0.5"

Yard

The open space between buildings and property lines at the front, rear, and sides of a property.

Formatted: Indent: Left: 0", Hanging: 0.5"

C. ~~DUTY OF MAINTENANCE OF PRIVATE PROPERTY: No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1977 Code § 10-332)~~

1. ~~No owner or occupant of any premises which are adjacent to any portion of a ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.~~

Formatted: Indent: Left: 0"

2. ~~An occupant of a residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained to prevent it becoming a nuisance by putrefying or attracting insects or animals.~~

D. ~~OUTDOOR STORAGE OF PERSONAL PROPERTY: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) that is visible from a public right-of-way, public street, sidewalk, or alley within the City is hereby declared to be a nuisance and dangerous to the public safety. (1977 Code § 10-333)~~

1. ~~Outdoor furniture restrictions. Keeping upholstered furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to passersby in the public right-of-way, public street, sidewalk, or alley is hereby declared to be a nuisance. Accordingly, no person shall place, use, keep, store or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way, public street, sidewalk or alley, and no property manager shall knowingly permit any such activity to occur on property owned or managed by such person. The following shall constitute specific defenses to any alleged violation of this Section:~~

a. ~~That such furniture was placed in the location in question in order to allow it to be~~

Formatted: Indent: Left: 0.5"

~~moved during a move of a resident or residents of the premises or has been removed as part of a trash or recycling program on a day scheduled for such moving or removal.~~

- ~~b. That such furniture was temporarily placed in the location in question in order that it be offered for sale at a yard or garage sale if each of the following conditions exists: provided, however, that this defense shall not apply if upholstered furniture is located in an outside location for more than two (2) days in any six-month period.~~
- ~~c. The furniture is located in an outside location only between the hours of 7:00 a.m. and 5:00 p.m.;~~
- ~~d. The person attempting to sell the furniture, or that person's agent, is outside during the period of the yard or garage sale in order to monitor the sale; and~~
- ~~e. A sign is placed on or near the furniture indicating that it is for sale.~~

~~2. Unsheltered inoperable motor vehicle prohibited. The unsheltered storage of an inoperable motor vehicle for sixty (60) days or more on private property in a manner as to be visible to a person standing upon any public street, alley, sidewalk, or right-of-way is prohibited. The inoperable motor vehicle, shall be located in a garage or other fully enclosed building or placed behind screening of sufficient size, strength and density, such as a solid fence, trees or shrubbery to screen it from public view of a person standing upon any public street, alley, sidewalk, or right-of-way.~~

~~a. Exceptions. This Section does not apply to any person who is conducting an automobile sales, storage, or repair enterprise operated in compliance with existing zoning regulations, when the storage is necessary to the operation of such business enterprise. These exceptions for certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this Chapter.~~

Formatted: Indent: Left: 0.5"

~~b. Public nuisances not exempt. Nothing in this Section shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Chapter, including without limitation allowing the accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks, or supports or explosion hazard.~~

~~c. Removal. The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance is also guilty of a Class C Misdemeanor. A separate offence shall be deemed committed on each day during or on which a violation occurs or continues. The imposition of any sentence does not exempt the offender from compliance with the requirements of this Chapter. No person, after abatement notification has been given, shall move the inoperable motor vehicle in question, to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.~~

Comment [U2]: Can we charge person with Class C for violating nuisance ordinance? I do not think so.

~~E. ABATEMENT BY OWNERS: The owner, owners, tenants, lessees or occupants of any lot within the City on which such "storage", as defined in Section 4-1-2-3 of this Chapter, is made, and also~~

~~the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City. (1977 Code § 10-334)~~

4-1-34: ~~————~~ **ABATEMENT PROCEDURE:**

A. APPOINTMENT AND DUTIES OF NUISANCE OFFICER/CITY DESIGNEE:

1. Appointment: There is hereby established the position of Nuisance Officer whose duties shall be to enforce the provisions of this Chapter. ~~Until another person is designated~~if there is no appointed Nuisance Officer serving, the contracted law enforcement agency, ~~or other designee~~ shall administer and enforce the provisions of this Chapter. More than one person may be appointed to act as Nuisance Officer or the city designated representative under this Section. In case of nuisances involving dangerous buildings or violations of codes this ordinance may be administered and enforced by the city's community development department.
2. Duties: The Nuisance Officer and/or the city designated representative is authorized to:
 - a. Perform all functions necessary to enforce the provisions of this Chapter.
 - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this Chapter.
3. Existence of ~~Objectionable Condition~~Nuisance: ~~If he the Nuisance Officer~~ the city designated representative concludes there exists an objectionable condition constituting a nuisance in violations of this Chapter, the city designated representative ~~Nuisance Officer~~ shall
 - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
 - b. Serve notice in writing upon the owner, ~~and~~ occupant, or responsible person of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the County Assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate, ~~or~~ destroy, remedy, and /or remove the nuisance within such time as the city designated representative ~~Nuisance Officer~~ may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the city designated representative ~~Nuisance Officer~~ following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - i. Contain the name and address of the responsible person(s).
 - ii. Contain a specific statement of the nature of the nuisance violation and generally describe the premises on which the violation exists.
 - iii. Inform the owner, occupant or other responsible person that in the event he or she disagrees ~~he they disagrees~~ with the determination of

Comment [U3]: Have we appointed Nuisance Officer?

the ~~city designated representative Nuisance Officer~~ and does not wish ~~or intend~~ to comply with the provisions of the notice, or that he ~~or she~~ objects to the factual or legal basis for the notice, ~~he they he or she~~ may request in writing a hearing before the City Council at a time and place to be set by the City Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

~~iii.~~ Inform the responsible person of the required corrective action to abate the nuisance.

v. Inform the responsible person that in the event he or she fails ~~he they fails~~ or neglects to correct the objectionable condition, the City will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he or she ~~he they~~ will be assessed such removal and destruction costs, together with reasonable administrative costs, and reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.

~~iv.~~ In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for the hearing objections and the City Recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of the time and place at which they may appear and be heard. The hearing shall be heard within less than five (5) days from the date of service or mailing of the notice of hearing. (1977 Code § 10-351; 1998 Code)

B. HEARING:

1. Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects, or other nuisance from the property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the city designated representative Nuisance Officer and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the city designated representative Nuisance Officer.
2. Notice of Decision; Abatement By Owner Or Occupant: In the event the decision of the City Council upholds the determination of the city designated representative Nuisance Officer, the notice originally given by the city designated representative Nuisance Officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten

(10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the city designated representative Nuisance Officer.

3. Time Period for Compliance: In the event that the decision of the City Council either overrules or modifies the determination of the city designated representative Nuisance Officer, the written decision of the City Council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the city designated representative Nuisance Officer, unless additional time is authorized by the City Council.

4. Filing of Amended Notice: The city designated representative nuisance Officer shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer. (1977 Code § 10-352)

- C. FAILURE TO COMPLY; ABATEMENT BY CITY: If any owner, occupant or other responsible person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such nuisance, weeds, garbage, refuse, objects or structures, the city may enter upon the subject property and may remove or correct the condition which is subject to the abatement. The city designated representative Nuisance Officer shall, at the expense of the city, employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed by the city, at the expense of the City. (1977 Code § 10-353)

- D. ITEMIZED STATEMENT: The city designated representative Nuisance Officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, ~~or~~ to persons having an interest in the property, or other responsible persons, demanding payment within twenty-three (23) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property. ~~(1977 Code § 10-353)~~ The itemized statement shall include the address of the subject property; an itemized list of and demand for payment for all expenses, including administrative and incidental expenses, of correcting or abating the nuisance; the address of the municipal treasurer where payment may be made for the expenses; and notification to the property owner that failure to pay the expenses may result in a lien on the property, that the owner may file a written objection to all or part of the statement within 20 days after the date of mailing (such hearing to be conducted in accordance with Utah Code Ann. § 10-11-3), and the location where the owner may file the objection, including the municipal office and address.

- E. FAILURE TO MAKE PAYMENT: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the City Treasurer within the twenty-three (23) days, the city designated representative Nuisance Officer may either cause suit to be brought in an appropriate court of law or may refer the

matter to the County Treasurer as provided in this Chapter. ~~{1977 Code § 10-355}~~

- F. COLLECTION BY LAWSUIT: In the event collection of expenses of destruction and removal are pursued through the courts, the ~~city may sue and shall be entitled to~~ City shall sue and receive judgment for all of said expenses of destruction and removal, including administrative costs, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law. {1977 Code § 10-356}
- G. COLLECTION THROUGH TAXES: In the event that the ~~city designated representative~~ Nuisance Officer elects to refer the expenses of destruction or removal to the County Treasurer ~~as a lien against the subject property for inclusion in the tax notice of the property owner,~~ he shall ~~make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement certify the past due costs and expenses to the county treasurer in accordance with Utah Code Ann. § 10-11-4 to the County Treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage objects, or structures.~~ Thereupon, the costs of the work shall be pursued by the County Treasurer in accordance with the provisions of Utah Code ~~Annotated Ann. section §§ 10-11-3 to~~ 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. ~~{1977 Code § 10-357}~~
- H. CRIMINAL PROCEEDING: The Commencement of criminal proceedings for the purpose of imposing penalties for violations of this Chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this Chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this Chapter. (1977 Code § 10-358)
- I. PENALTY FOR FAILURE TO COMPLY:
 - 1. Class C Misdemeanor ~~and Monetary Fine~~: Any owner, occupant or person having an interest in property subject to this Chapter who shall fail to comply with the notice or order given pursuant to this Chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in Section 1-4-1 of this Code for each offense, and further sum of twenty-five dollars (\$25.00) for each and every day such failure to comply continues beyond the date fixed for compliance.
 - 2. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this Chapter shall not be admissible in any criminal proceeding brought pursuant to this Section. (1977 Code § 10-359)
- J. ~~NON-EXCLUSIVE REMEDIES: Notwithstanding anything contained herein to the contrary, the city may proceed pursuant to Utah Code Ann. § 10-11-1 et seq. without complying with any of the provisions of this chapter. In addition, the city may take any or all of the above-mentioned remedies (administrative, civil, or criminal) to abate a nuisance and/or to punish any person or entity who creates, causes, or allows a nuisance to exist. The abatement of a nuisance does not~~

Formatted: Indent: Left: 0.5", Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

prejudice the right of the city or any person to recover damages or penalties for its past existence.

DRAFT