Providence City

15 South Main Street
Providence, UT 84332
(435) 752-9441 ● Fax: (435)753-1586

PROVIDENCE CITY COUNCIL
NOTICE OF PUBLIC HEARING

Project Type:	Code Amendment
Applicant:	Initiative Petition
Project Location/Description:	The Providence City Council will discuss an ordinance providing that a City Manager will serve as the chief administrative officer of the City and report directly to the Council. This ordinance would remove a power that is provided for as the Mayor's duty under Utah Code Ann. 10-3b-104.
Hearing Date:	April 12, 2016
Hearing Time:	6:30 PM
Hearing Location:	Providence Elementary School, 91 East Center, Providence UT

Prior to making a decision, the City Council is holding a public hearing. The purpose of the public hearing is to provide an opportunity for anyone interested to comment on the proposal before action is taken. The City Council invites you to attend the hearing in order to offer your comments.

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

Thank you,

Skarlet Bankhead
City Administrator/Recorder

Newspaper Publication Date(s): April 8, 2016

Posted on www.providencecity.com and the Utah Public Notice Website 04/06/2016

Ordinance No. 2016-006

AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 1 CHAPTER 6 MAYOR AND CITY COUNCIL, CHAPTER 7 OFFICERS AND EMPLOYEES, AND CHAPTER 12 CITY MANAGER

WHEREAS UCA § 10-3-702 states "The governing body may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law. . ." and

WHEREAS UCA § 10-3b-303 states:
(1)The council in a municipality operating under a six-member form of government:
(b) may:
(i) subject to Subsections (1)(c) and (2), adopt an ordinance:
(A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104; or
(B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);
(ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);
(iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):
(A) appoint, subject to Subsections (3) and (4), a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c); and
(B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and
(iv) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and
(c) may not remove from the mayor or delegate to a manager appointed by the council:
(i) any of the mayor's legislative or judicial powers or ceremonial functions;
(ii) the mayor's position as chair of the council; or
(iii) any ex officio position that the mayor holds.
(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:
(a) the mayor and a majority of all other council members; or
(b) all council members except the mayor.

WHEREAS the attached code amendment has been prepared based on the proposed ordinance changes contained in the "City Manager Implementation Initiative" petition application.

THEREFORE be it ordained by the Providence City Council

- The attached code amendment shall be adopted in accordance with UCA § 10-3b-303.
- This ordinance shall become effective immediately upon passage and posting.

Ordinance adopted by vote of the Providence City Council this ___ day of _____ 2016.

Council Vote:

Allen, Kirk	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Baldwin, Jeff	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Drew, John	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Giles, Dennis	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Sneddon, Roy	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent
Calderwood, Don	() Yes	( ) No ( ) Excused	( ) Abstained	( ) Absent

Signed by Mayor Don W Calderwood this day of 2016.

Providence City

_____

Don W. Calderwood, Mayor

Attest:

_____

Skarlet Bankhead, Recorder

DRAFT

CHAPTER 6

MAYOR AND CITY COUNCIL

SECTION:

1-6-1: Form of Government
1-6-2: Eligibility and Residency Requirements
1-6-3: Membership; Terms
1-6-4: Mayor in Six-Member Council
1-6-5: Mayor Pro Tempore
1-6-6: Council in Six-Member Council
1-6-7: Meetings; Procedure and Conduct
1-6-8: Ordinances and Resolutions; Procedures

1-6-1: **FORM OF GOVERNMENT:**

A. Providence City operates under the six-member form of government.
B. The powers of municipal government are vested in a council consisting of six members, one of which is a mayor.

1-6-2: **ELIGIBILITY AND RESIDENCY REQUIREMENTS**: Members of the City Council must meet the eligibility and residency requirements pursuant to Utah Code Title 10 Chapter 3 and Title 20A.

1-6-3: **MEMBERSHIP; TERMS:**

A. The offices of mayor and two council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.
B. The office of the remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections. (UCA 10-3-205(2))
C. Mayoral or council vacancies shall be filled as provided in UCA 20A-1-510.

1-6-4: **MAYOR IN SIX-MEMBER COUNCIL:**

A. The mayor in a six-member council is a nonvoting member of the council, except as follows:
   1. On each matter for which there is a tie vote of the other council members present at a council meeting; or
   2. When the council is voting on:
      i. Whether to appoint or dismiss a municipal manager; or
      ii. An ordinance that enlarges or restricts the mayor's powers, duties, or functions.
B. The Mayor:
   1. Is the chair of the council and presides at all council meetings;
   2. Exercises ceremonial functions for the city;
   3. May not veto an ordinance, tax levy, or appropriation passed by the council;
   4. ~~Except as modified by ordinance under UCA 10-3b-303(2), has the powers and duties described in UCA 10-3b-104; and~~ Performs all duties prescribed by law, resolution or ordinance;

5. ~~May, within budget constraints, appoint one or more administrative assistants to the mayor.~~ Ensures that all the laws, ordinances and resolutions are faithfully executed and observed;
6. When necessary, calls on the residents of the city over the age of twenty-one (21) years to assist in enforcing the laws of the state and ordinances of the city;
7. Appoints, with the advice and consent of the city council, persons to fill vacancies on commissions or committees of the city, unless otherwise delegated to the city manager by ordinance;
8. Signs all city ordinances and resolutions, and the mayor is further hereby authorized to sign his name officially for and in behalf of the city to all deeds, bonds, bills, notes, contracts, leases and other writings to which the city is a party, when so directed by the city council.

1-6-5: **MAYOR PRO TEMPORE:** If the mayor is absent or unable or refuses to act, the council may elect a member of the council as mayor pro tempore, to preside as a council meeting and perform, during the mayor's absence, disability or refusal to act, the duties of mayor. The city recorder shall enter in the minutes of the council meeting the election of a council member as mayor pro tempore.

1-6-6: **COUNCIL IN SIX-MEMBER COUNCIL:** The council is the legislative body of the municipality. The council exercises the legislative powers and performs the legislative duties and function of the municipality; and other duties in accordance with UCA 10-3b-105.

A. Pass all ordinances and rules and make all regulations not repugnant to law necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserved the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.
B. Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality;
C. Prescribe by resolution additional duties, powers and responsibilities for any elected or appointed municipal official, unless prohibited by statues;
D. Require by ordinance that any or all appointed officers reside in the municipality;
E. Provide for filling a vacancy in an elective or appointive office;
F. Perform any function specifically provided for by statute or necessarily implied by law;
G. Provide for enforcement of obedience to the ordinances with fines or penalties in accordance with UCA 10-3-703
H. Exercise any executive or administrative power and perform or supervise the performance of any executive or administrative duty or function that has not been given to the Mayor as set forth in UCA 10-3b-303.

1-6-7: **MEETINGS; PROCEDURE AND CONDUCT:**

A. Regular Meetings:
   1. The City Council may hold two (2) regular meetings which shall be held on the second or fourth Tuesday of each month at the Providence City Office.
   2. At a minimum, the City Council shall hold one (1) meeting each month.
   3. Meetings shall begin at 6:00 P.M.

4. The City Council may by vote provide for a different time and place for holding a meeting, if a majority of those voting deem it to be in the best interest of the citizens.

B. Special Meetings: The mayor or two council members may order the convening of a special meeting of the council pursuant to Utah Code.

C. Open Meetings: Every meeting is open to the public unless closed pursuant to Utah Code Title 52.

D. Quorum Defined: The number of council members necessary to constitute a quorum is three, excluding the mayor.

E. Meetings using Electronic Connection:
   1. Member(s) of the Providence City Council may attend meetings through a teleconference connection.
   2. Meetings using an electronic connection shall meet the requirements listed in Utah Code 52-4-207(3).

F. Providence City Council Bylaws: The Providence City Council shall adopt rules of order and procedure to govern a public meeting of the City Council. These rules of order shall be known as the Providence City Council Bylaws.

1-6-8: **ORDINANCES AND RESOLUTIONS; PROCEDURES:** Providence City Council adopts ordinances and resolutions in accordance with UCA 10-3-7. In accordance with UCA 10-8-84, the Providence City Council may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by UCA Title 10 Chapter 8, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property in the City. The Providence City Council may enforce obedience to the ordinances with fines or penalties in accordance with UCA 10-3-703

CHAPTER 7

OFFICERS AND EMPLOYEES

SECTION:

1-7-1:	Creating Offices; Filling Vacancies
1-7-2:	Compensation
1-7-3:	Bond Requirements
1-7-4:	Oaths
1-7-5:	Official Neglect and Misconduct
1-7-6:	City Recorder, City Treasurer and City Manager
1-7-7:	City Attorney
1-7-8:	Duties of All Officers
1-7-9:	Supervision

1-7-1: CREATING OFFICES; FILLING VACANCIES:

A. Offices Created By Council: The City Council may create any office deemed necessary for the government of the City and provide for filling vacancies in elective and appointive offices.

~~B. Mayor to Appoint and Fill Vacancies: The Mayor, with the advice and consent of the City Council, may appoint and fill vacancies in all offices provided for by law or ordinance.~~

~~C.~~ B. Continuation in Office: All appointed officers shall continue in office until their successors are appointed and qualified. (1998 Code)

1-7-2: COMPENSATION:

A. Established: The salary of the officers and employees of the City shall be paid in the amount and at such times as is established by resolution of the City Council. (1977 Code 3-552; 1998 Code)

B. Serving Two or More Positions: Whenever any person serves in two (2) or more positions either as officers or employees of the City, unless otherwise specifically provided in the employment agreement, by ordinance or by resolution, that person shall receive the salary or compensation of the office or employment paying the greater amount. (1977 Code 3-553)

C. Reimbursement For Travel Expenses: In addition to all other compensation or salaries, any officer or employee of the City may receive, following the submission to the City Recorder of a claim, travel expenses and per diem established by the Utah State Department of Finance for expense actually incurred by the person for attending any meeting, conference, seminar or

training session, provided attendance shall have been approved by the City Council. (1977 Code 3-554)

1-7-3: **BOND REQUIREMENTS:**

A. Approval of Bonds: The bonds of the Council members shall be approved by the Mayor and the bond of the Mayor shall be approved by the City Council at the first meeting of the City Council in January following a City election. (1998 Code)

B. Premium Paid by City: The premium charged by a corporate surety for any bond required by the City shall be paid by the City. (1977 Code 3-521C)

C. Additional Bonds: The City Council may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers, except as otherwise provided by law, shall be filed with the City Recorder, except that the bond of the City Recorder shall be filed with the City Treasurer. (1998 Code)

D. Bond Amounts: Before taking the oath of office and entering on the duties of their respective office, City officials shall each give a bond with good and sufficient securities, payable to the City, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to Utah Code Annotated section 51-7-15 and rule 4 of the State Money Management Council. (1977 Code 3-521A; 1998 Code)

E. Treasurer's Bond:

1. The City Treasurer's bond, or the bond of any person who acts as City Treasurer, may be set by resolution or ordinance in any amount not less than that established by the State Money Management Council. (1998 Code)

2. The Treasurer's bond shall be superseded by any rules, regulation or directive of the State Money Management Council when such rule, regulation or directive is binding on the City. (1977 Code 3-521B)

F. Blanket Bond: The bond required in this Section may be a blanket bond. (1977 Code 3-521D)

1-7-4: **OATHS:**

A. Constitutional Oath of Office: All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office. (1977 Code 3-531, 3-532; 1998 Code)

B. Oath; Filing: The oath of office required under this section is administered by any judge, notary public, or by the City Recorder. Elected officials shall take their oath of office at twelve o'clock

(12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the City Recorder.

C. Acts Of Officials Not Validated: No official act of any City officer shall be invalid for the reason that he failed to take the oath of office. (1998 Code)

1-7-5: **OFFICIAL NEGLECT AND MISCONDUCT:** In case any City officer shall at any time willfully omit to perform any duty, or willfully and corruptly be guilty of oppression, misconduct, misfeasance, or malfeasance in office, the person is guilty of a Class A Misdemeanor[1] shall be removed from office, and is not eligible for any City office thereafter. (1998 Code)

1-7-6: **CITY RECORDER, CITY TREASURER AND CITY MANAGER:**

A. Appointment: On or before the first Monday in February following a City election, the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to each of the offices of City Recorder and City Treasurer.

B. Ex Officio Auditor: The City Recorder is ex officio the City Auditor and shall perform the duties of that office. (1998 Code)

C. A City Manager may be appointed by the City Council and will serve at the pleasure of the governing body. (Ordinance Modification 012-01 12/11/01)

1-7-7: **CITY ATTORNEY:** The City Attorney may prosecute violations of City Ordinances, and under State law, infractions and misdemeanors occurring within the boundaries of the City and has the same powers in respect to the violations as are exercised by a county attorney, including, but not limited to, granting immunity to witnesses. The City Attorney shall represent the interests of the State of the City in the appeal of any matter prosecuted in any trial court by the City Attorney. (1998 Code)

[1] U.C.A. 76-3-204 for penalty provisions.

1-7-8: **DUTIES OF ALL OFFICERS:** It shall be the duty of all officers of the City to:

A. Documents to Successor: Deliver to their successor within one week after the change of office all records, documents and property which belong to the City.

B. Deliver Funds: Deliver to the City Treasurer within one week after receipt of such funds, all funds of the City which the officer receives.

C. Sign Required Records: Sign within a reasonable time all papers, documents and records received by him which require his signature.

D. Perform All Duties: Perform all duties imposed on him by virtue of the office held.

E. Give Receipts: Give receipts on forms provided by the City Recorder for all sums of money received, collected or paid them or their assistants. (1977 Code 3-361)

~~1-7-9 **SUPERVISION:** The Mayor shall supervise the official conduct of all officers of the City and investigate or cause to be investigated and present any complaint to the City Council, together with the results of the investigation, at the next regular meeting of the City Council after the complaint is received by him. (1977 Code 3-623)~~

CHAPTER 12

CITY MANAGER

(Ordinance Modification 008-2003 08/26/03)(OM 014-2006 11/14/2006)

~~SECTION 1. Title 1 Chapter 12 City Manager is repealed.~~

~~SECTION 2. Effective date. This ordinance shall become effective immediately upon publication and/or posting as provided by U.C.A.§ 10-3-712.~~

1-12-1: Appointment
1-12-2: Term of Office
1-12-3: Residency
1-12-4: Compensation
1-12-5: Powers and Duties
1-12-6: Acting City Manager
1-12-7: Removal from Office
1-12-8: Employment Agreement
1-12-9: Resignation
1-12-10: Other Employment

There is hereby created in and for the city the office of city manager. The city manager shall be appointed by the governing body (city council) and shall serve at its pleasure.

1-12-1: APPOINTMENT:
The city manager shall be appointed by the city council (herein defined as the mayor and city council). The city council shall approve the employment contract entered into with the city manager and the mayor shall sign the approved employment contract on behalf of the city.

1-12-2: TERM OF OFFICE:
The city manager shall serve at the pleasure of the governing body. Except as otherwise provided and/or subject to the provisions of contract, any person serving as a manager of the municipality under this article may be removed with or without cause by a majority vote of the governing body.

1-12-3: RESIDENCY:
Residency in the city at the time of appointment of a city manager shall not be requires as a condition of appointment.

1-12-4: COMPENSATION:
The city manager shall receive such compensation as the city council shall, from time to time determine. In addition, the city manager shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties.

1-12-5: POWERS AND DUTIES:

Under the direction and control of the city council, the city manager shall be responsible for the efficient management of all administrative affairs of the city. In addition to the general powers as chief administrative officer, the city manager shall have the following powers, duties and obligations:

A. Enforcement: The city manager shall faithfully execute and enforce all applicable laws, ordinances, rules and regulations, and see that all franchises, leases, permits, contracts, licenses and privileges granted by the municipality are observed.

B. Authority for Employees: It shall be the duty of the city manager, and the city manager shall have the authority, to control, order and give directions to all heads of departments and to subordinate officers and employees of the city through their respective department heads.

C. Power of Appointment and Removal: Is shall be the duty of the city manager to appoint, remove, promote and demote any and all officers and employees of the city, subject to all applicable personnel ordinances, rules and regulations, except for the positions of city recorder, city treasurer, city attorney, city engineer, justice court judge and city department heads, which shall only be appointed, demoted or removed with the advice and consent of the city council.

D. Direct and Supervise Administration: It shall be the duty of the city manager to direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by law.

E. Administrative Reorganization of Offices: It shall be the duty and responsibility of the city manager to conduct studies and implement such administrative reorganization of offices, positions or units under the city manager's direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business.

F. Implement and Recommend Policies and Programs: The city manager shall carry out the policies and programs established by the city council. The city manager shall submit to the city council plans and programs relating to the development needs of the city.

G. Policy Proposals: To propose plans and programs concerning the development, operation and need of the city and submit such plans to the governing body to be approved and developed as policy.

H. Ordinances: The city manager shall recommend to the cit council for adoption such measures and ordinances necessary for the efficient management of administrative affairs.

I. Council Meetings: It shall be the duty of the city manager to attend all meetings of the city council, unless excused therefrom by the mayor or the city council, and to take part in the discussions and to recommend matters for adoption by the city council, but without the right to vote.

J. Financial Reports: It shall be the duty of the city manager to keep the city council fully advised at all times as to the financial condition and needs of the city. The city manager shall prepare and submit monthly financial reports to the city council for their information and review.

K. Budget: the city manager shall prepare and submit the proposed annual budget and capital improvements program to the city council for their approval and in accordance with all state laws and regulations. The city manager shall serve as the city budget officer.

L. Expenditure Control and Purchasing: It shall be the duty of the city manager to manage all expenditures in accordance with state law and the city purchasing policy.

M. Investigations and Complaints: It shall be the duty of the city manager to make investigations into the affairs of the city, or any department of division thereof, and also any contract for the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government. The city manager shall examine and inspect the books, records and official papers of any office, department, agency, board or commission of the city and make investigations and require reports from all personnel.

N. Property: To keep or cause to be kept a current inventory showing all real and personal property of the city and its location. The city manager shall be responsible for the care and custody of all such property, including equipment, buildings, parks and all other city property which is not by law assigned to some other officer of body for care and control.

O. Emergencies: The city manager shall notify the city council of any emergency that may arise in the city.

P. Additional Duties: It shall be the duty of the city manager to perform such other duties and exercise such other powers as may lawfully be delegated to the city manager from time to time by ordinance or resolution or other official action of the city council.

Q. Reports to the city council the condition of the city and recommend for city council consideration any measures that the mayor considers to be in the best interest of the city.

1-12-6: ACTING CITY MANAGER:

The city manager shall appoint, with the approval of the city council, an acting city manager to serve in the absence or temporary incapacity of the city manager. The acting city manager shall have all the powers and duties of the city manager, but shall consult with the mayor regarding decisions of major impact on the city. The mayor shall act as city manager in the event of absence or temporary incapacity of both the city manager and the acting city manager.

1-12-7: REMOVAL FROM OFFICE:

The removal of the city manager shall be effected only by a majority vote of the city council convened in a regular city council meeting, except that the city manager shall not be removed from office during, or within a period of, ninety (90) days after the date newly elected official take office after a municipal election. The purpose of this provision is to allow any newly elected member of the city council to directly observe the actions and ability of the city manager to perform the duties described herein. After the expiration of the ninety (90) day period, the city manager may be removed from office. The city council may, without any particular showing of cause, remove the city manager from office. The city council's decision shall be final.

1-12-8: EMPLOYEEMENT AGREEMENT:

Nothing in this chapter shall be construed as a limitation on the power or authority of the city council to enter into any supplemental agreement with the city manager delineating additional terms and conditions of employment not inconsistent with any provisions of this chapter.

1-12-9: RESIGNATION:

Before voluntarily resigning from the position of city manager, the city manager shall give the city council at least thirty (30) days notice in writing of his or her intent to resign.

1-12-10: OTHER EMPLOYMENT:

The city manager shall not accept any outside employment in addition to the employment by the city without prior annual written approval of the city council.