



PROVO MUNICIPAL COUNCIL

Work Meeting

1:00 PM, Tuesday, October 26, 2021

Hybrid meeting: youtube.com/provocitycouncil or 351 W Center Street, Provo, UT 84601

This meeting will be conducted as a hybrid meeting, with some in-person components as well as continued virtual meeting access. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If both services are down or unavailable, after a reasonable (but short) time waiting to see if the services resume, the remainder of the meeting will be postponed to the next week, with appropriate public notice given of the rescheduled date. If you do not have access to the Internet, you can join via telephone following the instructions below. The in-person meeting will be held in the **Council Chambers** with limited seating to accommodate social distancing and related public health measures.

To listen to the meeting by phone: October 26 Work Meeting: Dial 346-248-7799. Enter Meeting ID 828 6379 1254 and press #. When asked for a participant ID, press #.

Agenda

Roll Call
Prayer

Approval of Minutes

October 12, 2021 Work Meeting

Business

1. A presentation regarding the review of Annual Fraud Risk Assessment. (21-106)
2. A discussion on percent for the arts programs. (21-098)
3. A presentation from the Kem C. Gardner Institute: "A Time to Build: Physical, Human, and Social Capital" (21-094)
4. A presentation on proposed Chapter 9.90 On-Street Parking Management. (21-028)
5. An ordinance on towing fees (21-105)

Closed Meeting

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or

reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with 52-4-204 and 52-4-205 et. seq., Utah Code.

Adjournment

Hybrid Meeting Protocol

For the past year, the Provo City Municipal Council has been meeting without an anchor location, pursuant to Utah's *Open and Public Meetings Act*, and has instead conducted all meetings online. Notwithstanding the ongoing coronavirus pandemic and Utah County's high level of coronavirus transmission, **the Municipal Council has determined to hold its meetings at an anchor location AND online.** We invite interested persons to participate:

- in the Council Chambers located at the City Center building; OR
- online by watching the live broadcasts at [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil) and [facebook.com/provocouncil](https://www.facebook.com/provocouncil).

There will be limited seating available in the Council Chambers and we encourage attendees to maintain appropriate health protocols such as wearing masks and social distancing. Public comment may be received in person OR online (by calling in or logging onto the Zoom Webinar) which are detailed in meeting notices and agendas, and on the broadcasts. Follow the instructions provided on public notices of each meeting.

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: provo.org/government/city-council/meet-the-council

Materials and Agenda: agendas.provo.org

Council meetings are broadcast live and available later on demand at [youtube.com/ProvoCityCouncil](https://www.youtube.com/ProvoCityCouncil)
To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next Work Meeting will be held on Tuesday, November 16, 2021. The meeting will be conducted **as a hybrid meeting**. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aides and services) during this meeting are invited to notify the Provo Council Office at 351 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at [youtube.com/ProvoCityCouncil](https://www.youtube.com/ProvoCityCouncil).

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

There will be no anchor location for this meeting; it will be conducted exclusively using online means and will be available to view on YouTube at [youtube.com/ProvoCityCouncil](https://www.youtube.com/ProvoCityCouncil). This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

Pending minutes – awaiting approval



PROVO MUNICIPAL COUNCIL

Work Meeting Minutes

1:30 PM, Tuesday, October 12, 2021

Hybrid meeting: [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil) or 351 W Center Street, Provo, UT 84601

Agenda ([0:00:00](#))

Roll Call

The following elected officials participated in the meeting:

Council Chair David Sewell, conducting
Council Vice-chair David Shipley
Councilor George Handley
Councilor Travis Hoban
Councilor Bill Fillmore
Councilor Shannon Ellsworth
Councilor David Harding
Mayor Michelle Kaufusi, arrived 2:45 PM

Prayer

The prayer was given by Councilor Bill Fillmore.

Approval of Minutes

Cliff Strachan, Council Executive Director, explained that the 2008-09 minutes were missing official minutes. Elizabeth VanDerwerken, Council Executive Assistant, discovered the minutes were missing and had prepared minutes for the Council to adopt retroactively to correct the error.

January 29, 2008 Info Work Session
May 13, 2008 Council Meeting
May 13, 2009 Joint Meeting with Provo School Board
May 19, 2009 Study Meeting
September 7, 2021 Council Meeting
September 21, 2021 Work Meeting
Approved by unanimous consent.

Business

- 1. A presentation regarding GRAMA in relation to public and confidential records retained by the city and how the process on how they are made public. (21-006) ([0:12:26](#))**

Amanda Ercanbrack, Director of Customer Service and former City Recorder, presented. Ms. Ercanbrack shared an overview of GRAMA (Government Records Access and Management

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Act). The intent of this legislation grants access for the public to public records, but also preserves privacy for personal information. A GRAMA request is not a request for information; it is a request for records that the City possesses. GRAMA requests can be submitted in a variety of ways, including online at provo.org/grama. The process for the City to respond to a request involves collaboration between the Recorder's office and other city departments—the responsive records are gathered, classified, and prepared accordingly (including redaction if necessary). In some cases, records may not be available through the City and the requestor is directed to the agency which manages the corresponding records.

Ms. Ercanbrack reviewed the classification process for records released through a GRAMA request and the types of records which are classified as private, controlled, or protected. The volume of GRAMA requests has increased dramatically in the last several years. With the ease of access with the online form and directing all requests to go through the GRAMA request process, this number has increased to about 33 requests per month in 2021. Ms. Ercanbrack also reviewed the process for a GRAMA appeal.

Brian Jones, City Attorney, also presented. During the annual GRAMA training which Mr. Jones has conducted at the beginning of every year, he typically only reviews the requirements of the law; he thanked Ms. Ercanbrack for reviewing the process in more detail. Mr. Jones shared several comments regarding GRAMA and the complexities of the law as written in state code. In recent years, the City has sent all records requestors through the GRAMA process, which provides additional protection for the city and for city employees who are responding to a request. It also gives a record of the request itself and provides additional documentation regarding what records were released or which may not have been. This maintains transparency and consistency in the process. Mr. Jones referenced and elaborated on Ms. Ercanbrack's comments on the distinction between information versus records. In response to Councilors who receive requests for information from constituents or members of the public on a regular basis, Mr. Jones suggested that if the Council or Council office created the record or information, they can decide when and where it is released. If information came from another department, the issue would best be referred to that department. This is the same advice he has dispensed to department directors throughout the city as well. *Presentation only.*

2. A presentation regarding an update on the Bridal Veil Falls Feasibility Study (21-031) ([0:30:47](#))

Kathy Wheadon, CRSA Architects and consultant with the Utah Division of Parks and Recreation, presented. Ms. Wheadon reviewed the history of the project and some of the developments with Utah County regarding the site and future use and access of the site. They have worked on public outreach, which is ongoing, to get public feedback about the site.

Councilor George Handley asked about the status of the survey. Ms. Wheadon indicated they have received about 3000 survey responses, but they would love more participation. Many respondents hope the site will continue as it is today without larger development, with some additional amenities. Mr. Handley asked about the designation of state park or state monument. Ms. Wheadon highlighted the difficulties with applying fees to this site; it would be challenging for the size and nature of this site, but many who have responded have been willing to pay fees

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that contribute toward the maintenance of the site. Ms. Wheadon elaborated on the possibilities for the specific land use designation from the state. Mr. Handley favored state management, but worried about fees or other factors which could make access to the site cumbersome or onerous.

Councilor Shannon Ellsworth shared her support for doing a regional plan for the entire canyon. Utah County, Wasatch County, Provo, Orem, the U.S. Forest Service, and other jurisdictions would have a vested interest in participating in a regional plan for Provo Canyon. She thinks it is important to have a multi-jurisdictional plan to prepare for or preempt the types of issues faced by other canyons in Utah. Mr. Handley shared the city's plans to develop a foothills and canyon plan, which will include the City's role and stewardship in enhancing and preserving the City's properties in Provo Canyon; that plan should correlate with a regional plan. ***Presentation only.***

3. A presentation from the Housing Committee regarding an ordinance change for ADU's to comply with Utah State Law. (21-102) ([0:46:29](#))

John Magness, Policy Analyst, and Robert Mills, Planning Supervisor, presented. Mr. Magness explained that the changes to ADU regulations would likely play out in the community in stages, with initial stages seeing more compliance with existing ADUs, then the broader population responding to the changes later on. There is typically a lag time between changing ordinances and the innovation being communicated out to the community. The highest costs will be parking and knowledge of the process. Mr. Magness commented on the recent changes to BYU's student housing policies. Data shows that most students want to live within 20 minutes of their university (driving or walking time). He shared data from other universities showing how student housing adapted following similar university policy changes. Mr. Magness displayed several maps which showed different radii from campus and he noted what acreage each radius would add. Mr. Magness invited Mr. Mills to review the drafted ordinance and the proposed changes. Mr. Mills reviewed the current context and what is permitted under the current city code.

Councilors shared comments and asked questions throughout the presentation. Councilor George Handley asked for clarification about the requirement to allow ADUs and Mr. Mills confirmed that the language in state code set a specific minimum; the city can exempt 67% of residential areas. Mr. Handley suggested language be clear on stating "at a minimum, 33%" so the distinction was clear. Mr. Mills reviewed a summary of the proposed changes. The Housing Committee forwarded a recommendation for the most permissive language and then will update this draft based on the Council's feedback. Mr. Mills reviewed the proposed zones and proposed requirements for ADUs. Cliff Strachan, Council Executive Director, commented on some of the limitations which have been common in university cities and historically in Provo City. Councilor Shannon Ellsworth commented that every other Utah city which does not have a university, no matter its size or population, has to permit ADUs in 75% of the city. Councilor David Harding noted several of the enforcement tools added under state law such as fines and liens. Councilor Bill Fillmore also mentioned his concerns about enforcement challenges. Mr. Magness responded to Mr. Fillmore's concern about compliance with HB082 and he elaborated on the use of liens on the property as a deterrent for illegal ADUs.

Marcus Draper, Assistant City Attorney, responded to some additional questions from Mr. Fillmore regarding enforcement. The current ordinance applies to any civil violation of city code.

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Mr. Fillmore asked whether the proposed ordinance has a scheme for discovering violations other than citizens reporting. Mr. Draper explained the complaint-based enforcement was simply a matter of policy, not the requirement of the law. More proactive enforcement might require more staff. Mr. Fillmore asked Mr. Mills to summarize the concerns raised by opponents to the ordinance. Mr. Mills suggested that most arguments against the ordinance are based out of fears that single-family neighborhoods will change, be faced with increased parking problems, and non-occupant landowners. Mr. Mills explained this was a way to provide additional stability in neighborhoods by encouraging owner-occupancy in neighborhoods. Mr. Mills illustrated how ADUs would contribute to neighborhood stability and longevity. The reality is that it provides stability for home ownership. Parking minimums have not changed and likely would not change. Above all, staff want to ensure that people have a way to come into compliance with the law.

Mr. Fillmore thought that a more stringent enforcement strategy would instill more trust with the public. Mr. Mills explained that their department has grown from the additional FTE which increases their capacity with regards to enforcement. The city's zoning administrator feels confident in the ability to enforce this ordinance. Brian Jones, City Attorney, responded to Mr. Fillmore's question and Mr. Jones added clarification regarding enforcement of ADUs that additional staff helps processing complaints so that complaints get enforced, but the city will still be dependent on citizen complaints to become aware of issues.

Mr. Harding hoped the ordinance would be as easy as possible to enforce and he hoped that collaboration with Community and Neighborhood Services would facilitate those efforts. He noted that the Council responded to the Community and Neighborhood Services Department's request for short-term rental monitoring software; he was curious about the potential of using this software to track and identify regular rental units. Mr. Harding signaled his full support in the enforcement efforts CNS is employing. Mr. Fillmore asked for clarification between long-term and short-term rental occupancy. Staff confirmed that ADUs can only be rented for 30 or more days as a long-term rental. Councilor Travis Hoban echoed comments on the importance of enforcement. He preferred an incremental approach to changing ADUs in the City, as he was concerned that rentals already constituted a lot of enforcement complaints. He thought it was important to gather more data before scaling ADUs to a large portion of city residential zones.

Mr. Mills resumed and noted that the intent with this presentation was to present the Committee's most permissive recommendations, as well as some policy questions, which would be further refined based on the feedback obtained from the Council.

Ms. Ellsworth commented that enforcement was the responsibility of the Mayor and City Administration. She thought that if the Council trusted the Administration to responsibly enforce, the Council should move forward. Change would naturally occur incrementally and with already low rental license fees, Ms. Ellsworth thought this would encourage compliance and allow the City to maintain better records about the homes that have ADUs. She liked that this update would streamline and simplify City code; the more complex it is, the more challenging it is for citizens to comply with and for staff to enforce. Ms. Ellsworth also felt there was some urgency to pass a proposal soon in order to comply with state law. She suggested the idea of a special study session with the Planning Commission to review the recommendations.

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Mr. Harding commented on some conditions he felt were important during the Committee's discussions of the recommendations, notably maintaining an internal connection. Council Chair David Sewell asked about the process forward and Mr. Mills elaborated on possible next steps. Mr. Sewell also asked about caretaker dwellings, which Mr. Mills confirmed are allowed for owners 65 years or older. Mr. Strachan suggested that it might not be advisable for the Council to meet with the Planning Commission about specific pending legislation. Brian Jones, City Attorney, added that there is not an issue with a joint presentation, but a concern in the past has been that the Planning Commission is an independent advisory body so a meeting regarding an actual proposed policy discussion can be problematic.

Mr. Hoban asked if staff could prepare a map showing a radius from BYU campus that would achieve the 33% benchmark. He also asked for clarification on the number of residents permitted in an ADU, which Mr. Draper addressed.

Motion: Travis Hoban moved to look at a radius from center of BYU campus that would get the city to 33% as an initial step of the process and continue this conversation about getting to 50% and 74%. Seconded by David Sewell.

Mr. Sewell supported Mr. Hoban's suggested approach of "nail it, then scale it." Mr. Handley was still concerned about the arbitrary nature of setting the 33% by using a radius from BYU, rather than a specific standard or criteria that identified zones for ADU eligibility.

Mr. Mills reviewed a slide which illustrated the different residential zones and how much area would be added by including those in the ADU ordinance. Mr. Strachan highlighted several decision points for the Council; a major decision point was whether or not to pursue a citywide change. Mr. Jones explained that the Council could pass something less permissive than what the Planning Commission has reviewed, so the Council could forward a recommendation while continuing to discuss the preferred policy solution.

Motion: David Shipley made a substitute motion that the Council submit the least restrictive version of the Housing Committee's recommendations to the Planning Commission for review and to bring this item back to the Council to continue the discussion. Seconded by David Harding.

Mr. Mills indicated that staff would prepare a text amendment application and schedule the item for the Planning Commission on October 27, to then return to the Council in November. Mr. Harding reiterated areas where the Housing Committee was seeking feedback from the Council: allowing two versus three unrelated residents and internal connections. He also thought it was important to draft language about fines, liens, and the registry process when an ADU is created.

Ms. Ellsworth appreciated Mr. Shipley's motion. The most permissive ordinance would include 3 unrelated people permitted in the ADU and she favored that version. She suggested that it was nearly impossible for code enforcement to determine how many people live in a unit and limiting it to 2 creates unnecessary confusion. The more streamlined and straightforward the ordinance is, the simpler enforcement would be. She supported Mr. Shipley's substitute motion. Mr. Handley also expressed that he supported the substitute motion. There was brief discussion of a possible

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special Work Meeting to allow the Council more time to discuss the matter before the next Planning Commission meeting.

Mr. Fillmore felt this process was rushing a complex issue; he felt the Council needed to hold more discussion at their Work Meeting in two weeks; he wanted to obtain the necessary clarification through further discussion before referring the issue to the Planning Commission.

Mr. Hoban was fine with permitting three occupants in an ADU and did not have a preference on the internal connection issue. His main concerns related to the process for rolling out the changes and the implications of said changes. Mr. Sewell called for a vote on the substitute motion.

Vote: Approved 5:2, with Bill Fillmore and David Sewell opposed.

4. A discussion on towing fees (21-105) (2:14:51)

Cliff Strachan, Council Executive Director, presented. Mr. Strachan reviewed the relevant sections of state code which outlined permitted towing fees. The state code authorizes a maximum amount, and cities are able to authorize a lower amount. The state rate has changed in recent years and the City rate has not been adjusted for some time. The proposal is to change the City's rate to a percentage of the state's maximum, so that it would not require frequent adjustments as the State's rate changes due to inflation and other factors.

Councilor David Sewell provided additional context as to why Council Leadership raised this issue. The intent was to maintain a level of fairness for the related businesses—if there is no inflation adjustment over a long period of time, that essentially acts as regulating this type of business out of business. If there is support for this general concept, then the Council can propose bringing back an ordinance amendment to that effect.

Councilor David Shipley commented with his support, as most cities follow the state's amount. He recently learned that several cities do not allow non-consent towing and he wanted to learn more about those situations. However, in principle, he felt it was important to do an inflation adjustment and by utilizing a percentage, this would tie the rate to State law and could alleviate any concerns of a potential legal battle in the future over rates.

Brian Jones, City Attorney, shared a clarification regarding the vocabulary on towing in state statute and what different situations entailed. Non-consent police-generated tows are permitted everywhere. There are two categories of non-consent, non-police tows—requests initiated by the property owner are permitted everywhere. The other category is tows that result from the towing companies patrolling the lot—Mr. Jones uses the shorthand phrase “patrol towing” to refer to this sub-category only. Mr. Jones clarified that Mr. Shipley's comments referred to this—some cities do not allow patrol towing and require a direct request from the property owner to initiate a non-consent, non-police tow.

Councilor Shannon Ellsworth asked what the State's process was to reach its fees. Mr. Jones indicated that the state legislature has designated the ratemaking authority as the DMV's division which oversees towing issues. The rates are adjusted annually, although the storage rate has

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remained fixed; the other fees are typically raised a little each year to account for increased costs for gas, maintenance, employees, etc.

Mr. Strachan shared background information about former Mayor John Curtis's approach to related issues with predatory towing in around 2013-14. Mr. Sewell hoped the Council could determine today whether there was majority interest in making a change to the rate structure.

Motion: David Sewell moved to direct staff to prepare for the Council's consideration an amendment that would set Provo's rate on patrol towing at 80% of the state's rate. Seconded by David Shipley.

Mr. Handley had some lingering concerns about the impact to students and he was not inclined to support an increase. Mr. Shipley was supportive of the motion because he wanted to further the discussion. He also wanted to learn more about Salt Lake's specific prohibition. Councilor Bill Fillmore was also interested in more information about cities that had banned patrol towing. Mr. Sewell reiterated that he felt it was unfair to set a cap on a rate and then never change that cap; it had a negative impact on specific businesses.

Vote: Approved 5:2, with George Handley and David Harding opposed.

5. A presentation from Parking Committee. (21-028) ([2:28:55](#))

Councilor David Harding presented. On-street parking is an incredible amenity, but its conveniences break down in several ways—notably the benefits are lost when demand exceeds capacity. Mr. Harding reviewed the Parking Committee's process and shared details about the proposed program. The proposal centers on creating Chapter 9.90 On-Street Parking Management, which would designate a broad boundary or different areas which the parking manager can then manage within specific parameters. Mr. Harding shared his view and intended goals for the program, which was to improve the parking experience rather than make money.

Councilor George Handley asked about the staff response and what time demands this would place on staff. Mr. Harding indicated that staff were going to do an in-depth review of the proposal. Councilor Bill Fillmore thanked Mr. Harding for tackling a complex problem and proposing this solution. Mr. Fillmore was curious what the worst-case scenario of doing nothing was and whether any parties oppose a parking proposal. He asked Mr. Harding to summarize their objections or concerns and how they plan on addressing those concerns. Mr. Harding explained that for decades there has not been a viable solution for parking in the Joaquin area. He commented on the dynamics impacting parking in the area and shared additional comments.

Councilor David Shipley shared comments about conflicting feedback from various apartment complex owners in the Joaquin area—some opposed but many supported a parking permit program. Mr. Shipley was very supportive of the proposal and thought it would be helpful to move forward with guidelines that the parking manager/coordinator to operate from. He thought adopting Chapter 9.90 would put things in motion and perhaps the parking coordinator could help refine Chapter 9.91. Mr. Harding added to Mr. Shipley's comments on property owners' varying opinions of the proposal. He noted that putting a permit parking program in place could

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help encourage the redevelopment of aging complexes which had historically not provided adequate parking.

Mr. Handley thought that the lack of parking solutions already cost the City with maintenance of public roads and he thought a modest solution was needed. Parking seems like it would deter students from living in the area with the recent BYU housing policy changes. He wanted to hear from staff about the impact of this program on their ability to manage parking. Hannah Salzl, Planner, indicated that it would take considerable staff resources to enforce and at least one full-time parking enforcement officer. Staff hoped at a minimum that the plan would be cost-recovery for at least one full-time staff member. Mr. Harding noted that Chapter 9.91 did not have staff support at this time and so the committee has not proposed moving it forward. He suggested doing an Open City Hall topic to obtain student feedback. The Council discussed the ideal timeline for receiving ample public feedback.

Mr. Fillmore raised the question again about legitimate concerns that other property owners may have about the proposal. Mr. Harding noted that there have been several focus groups and committee discussions which have involved various landlords. Mr. Fillmore said that one concern he has heard raised is that Joaquin is really two different neighborhoods – North Joaquin, which was largely comprised of students, and South Joaquin, which was mainly single-family homes; he wondered if it made sense to look at a bifurcated approach. Mr. Harding commented on that dynamic and also noted that the committee has involved some residents with longevity and who have the student interests in mind. Councilor David Sewell noted a specific comment from several apartment owners, who felt that some of the no parking signs placed in the Joaquin neighborhood seemed too far from the corners.

Wayne Parker, CAO, commented. He said that staff appreciate the concept of Chapter 9.90 and its flexible, responsive framework. He wanted to make the Council aware of some time constraints with Chapter 9.91. There was significant signage infrastructure which needed to be placed and he also noted the timing of students signing rental contracts—for students to make informed decisions, it was important to have the ground rules established to facilitate clear expectations. Mr. Parker also noted the unknown implications of the BYU student housing policy changes. He thought a Joaquin parking program would likely shift much more to address commuter-related parking, but it may take more time to fully understand the implications. The increased flexibility in Chapter 9.90 will be critical to implement a program like this and advanced lead time would be needed no matter what.

The Council discussed the next steps and staff shared insight into the timeline.

Motion: David Harding moved to direct staff to present the proposed Chapter 9.90 on Open City Hall and gather public feedback with the intent to bring the item back for consideration by the Council. Seconded by George Handley.

Mr. Shipley and Mr. Fillmore both commented their support of Chapter 9.90 and receiving additional public feedback.

Vote: Approved 7:0.

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Motion: David Harding moved to direct staff to present the proposed Chapter 9.91 on Open City Hall and gather public feedback with the intent to bring the item back for consideration by the Council. Seconded by Travis Hoban.

Mr. Handley preferred to wait on Chapter 9.91. Mr. Parker also clarified what timeline he had envisioned based on his comments. Mr. Strachan indicated that unless the specific timing were identified in the motion, staff could coordinate more specific timing of the proposal. Ms. Salzl indicated that staff needed to know today what the deadline for 9.91 was since it would require more targeted community outreach in Joaquin.

Mr. Shipley suggested Chapter 9.90 come back with public input, with 9.91 waiting until a parking coordinator was in place. Mr. Harding commented on the timing and the upcoming changes to the Council in January. Mr. Sewell shared his understanding as a committee member that the committee had made a commitment to staff not to push Chapter 9.91 forward until staff were ready. Ms. Salzl said that Chapter 9.91 needed a fiscal study and further analysis. Mr. Strachan suggested that staff work with Council Leadership and the sponsoring committee on the specific timing. Mr. Shipley noted that getting premature feedback on 9.91 may muddy the waters of getting feedback on Chapter 9.90; he preferred getting standalone feedback on Chapter 9.90 independent of the Joaquin parking proposal. Mr. Sewell reiterated his preference of waiting to have staff support before moving Chapter 9.91 forward.

Vote: Failed 1:6, with David Sewell, David Shipley, Bill Fillmore, Shannon Ellsworth, Travis Hoban, and George Handley opposed.

Closed Meeting

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with 52-4-204 and 52-4-205 et. seq., Utah Code.

Brian Jones, City Attorney, explained that the closed session was regarding a personnel matter and a strategy session regarding the sale of property.

Motion: George Handley moved to close the meeting and hold the closed meeting after the regular Council Meeting. Seconded by David Harding.

Vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: JOHNB
Department: Administrative Services
Requested Meeting Date: 10-26-2021

SUBJECT: A presentation regarding the review of Annual Fraud Risk Assessment. (21-106)

RECOMMENDATION: Presentation only

BACKGROUND: State Auditor's office requires this assesement be completed and shared with the Municipal Council in a public meeting.

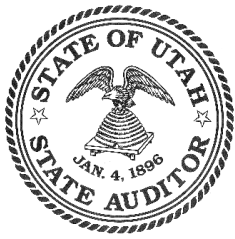
FISCAL IMPACT: None

PRESENTER'S NAME: John Borget

REQUESTED DURATION OF PRESENTATION: 30 Minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 21-106



OFFICE OF THE
STATE AUDITOR

Questionnaire

Revised December 2020

Fraud Risk Assessment

INSTRUCTIONS:

- Reference the *Fraud Risk Assessment Implementation Guide* to determine which of the following recommended measures have been implemented.
- Indicate successful implementation by marking “Yes” on each of the questions in the table. Partial points may not be earned on any individual question.
- Total the points of the questions marked “Yes” and enter the total on the “Total Points Earned” line.
- Based on the points earned, circle/highlight the risk level on the “Risk Level” line.
- Enter on the lines indicated the entity name, fiscal year for which the Fraud Risk Assessment was completed, and date the Fraud Risk Assessment was completed.
- Print CAO and CFO names on the lines indicated, then have the CAO and CFO provide required signatures on the lines indicated.

Fraud Risk Assessment

Continued

*Total Points Earned: 391 /395 *Risk Level: Very Low Low Moderate High Very High
> 355 316-355 276-315 200-275 < 200

	Yes	Pts
1. Does the entity have adequate basic separation of duties or mitigating controls as outlined in the attached Basic Separation of Duties Questionnaire?	200	200
2. Does the entity have governing body adopted written policies in the following areas:		
a. Conflict of interest?	5	5
b. Procurement?	5	5
c. Ethical behavior?	5	5
d. Reporting fraud and abuse?	5	5
e. Travel?	5	5
f. Credit/Purchasing cards (where applicable)?	4	5
g. Personal use of entity assets?	5	5
h. IT and computer security?	5	5
i. Cash receipting and deposits?	4	5
3. Does the entity have a licensed or certified (CPA, CGFM, CMA, CIA, CFE, CGAP, CPFO) expert as part of its management team?	20	20
a. Do any members of the management team have at least a bachelor's degree in accounting?	10	10
4. Are employees and elected officials required to annually commit in writing to abide by a statement of ethical behavior?	20	20
5. Have all governing body members completed entity specific (District Board Member Training for local/special service districts & interlocal entities, Introductory Training for Municipal Officials for cities & towns, etc.) online training (training.auditor.utah.gov) within four years of term appointment/election date?	20	20
6. Regardless of license or formal education, does at least one member of the management team receive at least 40 hours of formal training related to accounting, budgeting, or other financial areas each year?	20	20
7. Does the entity have or promote a fraud hotline?	20	20
8. Does the entity have a formal internal audit function?	18	20
9. Does the entity have a formal audit committee?	20	20

*Entity Name: Provo City

*Completed for Fiscal Year Ending: June 30, 2021 *Completion Date: October 11, 2021

*CAO Name: Wayne Parker *CFO Name: John Borget

*CAO Signature: _____ *CFO Signature: _____

*Required

Basic Separation of Duties

See the following page for instructions and definitions.

	Yes	No	MC*	N/A
1. Does the entity have a board chair, clerk, and treasurer who are three separate people?	X			
2. Are all the people who are able to receive cash or check payments different from all of the people who are able to make general ledger entries?	X			
3. Are all the people who are able to collect cash or check payments different from all the people who are able to adjust customer accounts? If no customer accounts, check "N/A".		X	X	
4. Are all the people who have access to blank checks different from those who are authorized signers?	X			
5. Does someone other than the clerk and treasurer reconcile all bank accounts OR are original bank statements reviewed by a person other than the clerk to detect unauthorized disbursements?	X			
6. Does someone other than the clerk review periodic reports of all general ledger accounts to identify unauthorized payments recorded in those accounts?	X			
7. Are original credit/purchase card statements received directly from the card company by someone other than the card holder? If no credit/purchase cards, check "N/A".	X			
8. Does someone other than the credit/purchase card holder ensure that all card purchases are supported with receipts or other supporting documentation? If no credit/purchase cards, check "N/A".	X			
9. Does someone who is not a subordinate of the credit/purchase card holder review all card purchases for appropriateness (including the chief administrative officer and board members if they have a card)? If no credit/purchase cards, check "N/A".	X			
10. Does the person who authorizes payment for goods or services, who is not the clerk, verify the receipt of goods or services?	X			
11. Does someone authorize payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	X			
12. Does someone review all payroll payments who is separate from the person who prepares payroll payments? If no W-2 employees, check "N/A".	X			

* MC = Mitigating Control

Basic Separation of Duties

Continued

Instructions: Answer questions 1-12 on the Basic Separation of Duties Questionnaire using the definitions provided below.

☺ If all of the questions were answered “Yes” or “No” with mitigating controls (“MC”) in place, or “N/A,” the entity has achieved adequate basic separation of duties. Question 1 of the Fraud Risk Assessment Questionnaire will be answered “Yes.” 200 points will be awarded for question 1 of the Fraud Risk Assessment Questionnaire.

☹ If any of the questions were answered “No,” and mitigating controls are not in place, the entity has not achieved adequate basic separation of duties. Question 1 of the Fraud Risk Assessment Questionnaire will remain blank. 0 points will be awarded for question 1 of the Fraud Risk Assessment Questionnaire.

Definitions:

Board Chair is the elected or appointed chairperson of an entity’s governing body, e.g. Mayor, Commissioner, Councilmember or Trustee. The official title will vary depending on the entity type and form of government.

Clerk is the bookkeeper for the entity, e.g. Controller, Accountant, Auditor or Finance Director. Though the title for this position may vary, they validate payment requests, ensure compliance with policy and budgetary restrictions, prepare checks, and record all financial transactions.

Chief Administrative Officer (CAO) is the person who directs the day-to-day operations of the entity. The CAO of most cities and towns is the mayor, except where the city has a city manager. The CAO of most local and special districts is the board chair, except where the district has an appointed director. In school districts, the CAO is the superintendent. In counties, the CAO is the commission or council chair, except where there is an elected or appointed manager or executive.

General Ledger is a general term for accounting books. A general ledger contains all financial transactions of an organization and may include sub-ledgers that are more detailed. A general ledger may be electronic or paper based. Financial records such as invoices, purchase orders, or depreciation schedules are not part of the general ledger, but rather support the transaction in the general ledger.

Mitigating Controls are systems or procedures that effectively mitigate a risk in lieu of separation of duties.

Original Bank Statement means a document that has been received directly from the bank. Direct receipt of the document could mean having the statement 1) mailed to an address or PO Box separate from the entity’s place of business, 2) remain in an unopened envelope at the entity offices, or 3) electronically downloaded from the bank website by the intended recipient. The key risk is that a treasurer or clerk who is intending to conceal an unauthorized transaction may be able to physically or electronically alter the statement before the independent reviewer sees it.

Treasurer is the custodian of all cash accounts and is responsible for overseeing the receipt of all payments made to the entity. A treasurer is always an authorized signer of all entity checks and is responsible for ensuring cash balances are adequate to cover all payments issued by the entity.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 10-26-2021

SUBJECT: A discussson on percent for the arts programs. (21-098)

RECOMMENDATION: Presentation and discussion

BACKGROUND: The Council at the September 21, 2021 meeting heard a presentation on the concept of a Percent for Arts program, why public art matters, how they are funded, and some Utah examples. Direction was given to begin the outline of a Percent for Arts program for Provo City. The presentation and discussion today provides that outline and the opportunity to provide direction for various policy considerations.

FISCAL IMPACT: None yet

PRESENTER'S NAME: Cliff Strachan, Council Executive Director

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 21-098



Provo City Municipal Council

Staff Memorandum

Percent for the Arts Program Outline

Cliff Strachan, Municipal Council Executive Director

Summary

The Council recently requested staff to research and outline a possible Percent for the Arts Program. This memo summarizes findings and makes some suggested actions for the Council to consider. Much more work will need to be done to create and implement a program, especially if it is wanted prior to preparation of the FY 2023 budget. Should the Council wish to proceed, it is recommended that an ad hoc committee be created to work through the many issues to be considered and prepare recommended policies.

Basic concept

Provide funding for public art by setting aside a percentage of capital improvement project budget(s) for the integration of public art into parks, public buildings, and public spaces throughout the city. Such efforts increase the aesthetic value of parks, public buildings, and public spaces.

Planning and Selection

There are many ways to do this. A common one is to have a body designated to plan for, review proposed art works, and make recommendations on where art is needed and what art works would be appropriate. Some jurisdictions retain that function internally and others delegate it out.

Salt Lake City, for example, has an Art Design Board¹, which oversees the City's public art program. As established by ordinance, the board designates certain funds for eligible construction projects to commission artwork. The Board also reviews and determines public art policy and is active in the artist selection process.

Utah's Percent for Arts program is led by the Utah Division of Heritage and Arts, with project budgets vetted by the Legislature's appropriations bodies, which approve or cuts public arts funding for new buildings or building renovations. Screening and selecting of potential art projects involve the division director, the Division of Facilities Construction and Management, and the project architect, with the principal user having representation equal to the other entities represented.

Ogden City's the Public Arts Program has an Arts Advisory Committee to review and recommend arts, is reviewed by the Planning Commission, gets Mayoral approval and then the Council approves funding.

¹ Not to be confused by the Salt Lake City Arts Council, which is an allied but independent non-profit organization that advises the Mayor and the Council, on the arts and arts-related activities.

Ogden has different paths depending on the size and nature of the art project proposed. For example, art projects under \$30,000 may be authorized by the Mayor.

Provo City, which created the Provo Arts Council² to help promote and advance the arts in the community, could use that body to plan, select, and recommend art works, for approval by the Mayor and/or the Council depending on the nature and size of the project. The Arts Council's duties already include:

- Developing a comprehensive plan to strengthen the full spectrum of artistic resources in the City.
- Assessing the needs of the City for performance facilities and display facilities for the arts and operation of the Covey Center for the Arts and other such facilities.
- Promoting, producing, and encouraging performances or displays by local, regional, and national artists.
- Supplying information regarding cultural opportunities in Provo City to the Provo City Parks and Recreation Office.
- Organizing groups, with the consent of the Mayor, to be known as patrons of the arts; and
- Acting as an advisory body to the Mayor, Municipal Council, Director of Parks and Recreation, and the Covey Center for the Arts General Manager in all matters pertaining to the arts.

Partners and Funding

There are multiple ways³ to accomplish a Percent for Arts Program. Two common methods are from public and private sources.

A typical public project might:

- Levy a percentage against capital project construction budgets
- Allocate a fixed amount of the city's capital budget for public art
- Partner with other government departments to integrate art into public infrastructure such as streetscape improvements, public seating, etc.
- Partner with other organizations to secure funds to integrate public art into public spaces.

A typical private sector program might partner with private developments to secure public art in exchange for negotiated benefits. Securing public art might look like:

- Developers commission public art for public areas on development sites.
- Developers pay into a special fund for public art, which fund might be used for commissioning, constructing, and/or maintaining public art.

² The Provo Arts Council, by code, consists of 11 members, 8 of whom must be Provo residents, serving three-year terms, are appointed by the Mayor with the advice and consent of the Municipal Council.

³ The source for this section is artsandplanning.mapc.org/percent-for-art/ and the text is drawn from this source.

Appropriations and Capital Improvement Projects

Funding is crucial to the success of any Public Arts program. Many percent for arts programs require capital projects to include a one percent allowance for arts, whether built as part of a project or those funds are moved to a fund for art projects elsewhere.

Others establish Arts programs using other funding sources. Ogden City moved from a true percent for arts program to a Public Arts program in which a fund is maintained at around \$500,000 balance, to which the city contributes. The move came because their main projects were water and sewer, and they were bonding for much of the funding. Ogden's leaders did not want to pay interest on the one percent for arts financed from the bond. And since they had other sources, such as revenue from federal leases of land in Ogden, the city made the change. Currently they contribute \$200,000 per year to arts: \$100,000 to the arts fund and \$100,000 for arts grants (another element of its Arts program).

Like Ogden City's experience, Provo City's utility infrastructure needs are far greater than available revenues from water, sewer, etc., city staff are reluctant to endorse a percent for arts program for those projects.

There are other sources to consider. Provo City participates in the RAP Tax (Recreation, Arts, and Parks) where a one-tenth of one percent sales tax brings about \$1.6 million per year. In the past year alone, RAP tax revenue exceeded projected revenue by about \$300,000. Additionally, the Provo City in most years has a General Fund surplus, both in terms of higher than budgeted revenues and lower than budgeted expenditures.

Donations are also a possibility. In kind donations should be reviewed by a committee for appropriateness etc. before being accepted. Monetary donations could be added to an arts fund for future use or for a specific project. South Jordan City has a voluntary donation program that nets a few thousand dollars per year on utility bills.

Funding of the fund and expenditures from the fund should be done through the annual budget appropriations or special appropriations as deemed appropriate.

How and when expenditures are authorized will depend on the policies adopted to manage them. The Council may wish to allocate monies for different purposes. An arts grants program is a common usage to promote and support local artists, minor projects (ex. murals), or arts events. However, the largest portion of funding should be reserved for "the integration of public art into parks, public buildings, and public spaces throughout the city."

Two common expenditures included in funding for public art are administrative costs (some agencies use entities outside the city organization) and maintenance costs for existing and proposed art works.

Additional Policy Considerations

There are numerous other considerations to be resolved should the City Council determine to create a Percent for Arts Program or Public Arts Program.

The workflow of reviewing, selecting, and awarding funding for projects will need to be determined. The provisions for determining whether an arts project should be selected, whether a construction project should or should not include public art works, site selection, ownership of art, and others. These can be resolved further into the process of creating processes and procedures.

Possible Actions for Council consideration

1. Establish a Percent for Public Arts program for the integration of public art into parks, public buildings, and public spaces.
2. Require public art for new or remodeled buildings, parks, and streetscapes:
 - a. Buildings – projects should include 1% for public art in and around the building
 - b. Parks – projects should include 1% for public art in and around the park facilities
 - c. Streetscapes – projects should include funding to beautify and improve the streetscapes
 - d. Utilities infrastructure projects and utility buildings are exempt
3. Establish mechanisms for funding for public art; options include:
 - a. A percentage of capital improvement project budget(s) for buildings, parks, and streetscapes; utilities infrastructure projects and utility buildings are exempt.
 - b. Establishing a Public Arts Fund into which appropriations for arts grants, public arts projects, and maintenance might be made.
 - c. Accepting donations, whether solicited or volunteered, monetary or in kind; in kind donations should follow a process for review, recommendation, and approval as any other public art proposal.
 - d. Accepting private contributions in exchange for negotiated benefits.
 - e. Allocating funding during the annual budget appropriation, carryover, or other processes.
 - i. Possible sources might include direct appropriations of funds, use of surplus funds, allocation of the RAP Tax funds, etc.
 - ii. A suggestion has been made that perhaps funds in a Public Arts Fund could be used on a match basis with various project budgets.
4. Determine the who and how makes decisions on selection and approval of public works of art.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: EVANDERWERKEN
Department: Council
Requested Meeting Date:

SUBJECT: A presentation from the Kem C. Gardner Institute: "A Time to Build: Physical, Human, and Social Capital" (21-094)

RECOMMENDATION: Presentation and discussion- Time certain 2 PM requested

BACKGROUND: As part of the Gardner Policy Institute's presentation series for the Provo Council, this third discussion focuses on the benefits of building and maintaining social capital within neighborhoods and communities. Additional information on housing and economic conditions in Utah will be provided.

FISCAL IMPACT:

PRESENTER'S NAME: Natalie Gochmour

REQUESTED DURATION OF PRESENTATION: 45 minutes (30 presentation, 15 Q&A)

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 21-094

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 08-24-2021

SUBJECT: Presentation from Parking Committee. (21-028)

RECOMMENDATION: Presentation and Discussion

BACKGROUND: The Parking Committee proposes a new parking paradigm called the On-Street Parking Management (OSPM) program that would be created with the proposed Provo City Code Chapter 9.90 and applied to the Joaquin Neighborhood with Provo City Code Chapter 9.91. The Parking Manager would have the authority to apply the solutions in Chapter 9.90 within a Council-approved OSPM area without returning to the Council for every change, though they would have to notify residents in affected areas. The Parking Manager could create parking zones where one of two parking management strategies could be applied:

1. Paid timed parking
2. Permit parking with paid timed parking

FISCAL IMPACT: unknow at this time could require a new FTE

PRESENTER'S NAME: Dave Harding Councilmember

REQUESTED DURATION OF PRESENTATION: 60 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 21-028

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Chapter 9.90

ON-STREET PARKING MANAGEMENT

Sections:

- 9.90.010 Purpose.**
- 9.90.020 Scope.**
- 9.90.030 Managed On-Street Parking Areas.**
- 9.90.040 Timed Parking.**
- 9.90.060 Designation Process.**
- 9.90.070 Handicapped Parking.**
- 9.90.080 Other Parking Regulations.**

9.90.010

Purpose.

The On-Street Parking Management (OSPM) Chapter is enacted to establish a regulatory framework to address adverse effects of excessive demand for on-street vehicle parking, which threatens the health, safety, and welfare of residents of the City. The active management of on-street parking is needed to preserve the benefits of on-street parking and discourage the abuse of this public resource.

9.90.020

Scope.

The provisions of this Chapter shall apply to any OSPM area established under the authority of this Chapter. The provisions of this Chapter are not intended to regulate parking on private property. If a provision of this Chapter conflicts with a provision of a chapter enacting a specific OSPM area, the provision of the specific enacting chapter shall control within the OSPM area.

9.90.030

On-Street Parking Management Areas.

(1) Streets in an OSPM area might have different parking needs and so might require different parking solutions. Therefore, streets within a designated area may be broken down into parking zones, small sub-areas consisting of a group of contiguous block faces. The following standardizations apply within each zone:

- (a) Zones shall be no smaller than one (1) block face and
- (b) All parking management strategy parameters as described in Section 9.90.040 shall be uniform within a parking zone, though they may vary from zone to zone within an OSPM area.

(2) Parking on a public street within parking zones may be restricted by either of the following parking management strategies:

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(a) Paid timed parking or

(b) Paid timed parking with optional permits.

(3) The Community and Neighborhood Services (CNS) Director or the Director's designee is authorized to implement, modify, and terminate parking zones within the boundaries of OSPM areas. The CNS Director or the Director's designee may also determine the parking management strategies parameters as described in Section 9.90.040.

(a) Implementations, modifications, and terminations shall require the CNS Director or the Director's designee to notify residents and property owners by mail within the parking zone two (2) weeks before the proposed changes are to take effect.

(4) The parking regulations shall be regularly enforced by Community and Neighborhoods Services Department personnel.

(5) The boundaries of all OSPM areas shall be shown on an Official On-Street Parking Management Area Map adopted by the Municipal Council.

(6) Exemptions

(a) A motor vehicle being used to provide repair, service, or emergency assistance within the designated area shall be exempt from the provisions of this Section. Such exemption shall terminate upon completion of repair, service, or assistance provided. Nothing in this Section is intended to prohibit a resident of an OSPM area from obtaining a parking permit for such vehicles as provided in this Chapter.

(b) A public agency vehicle with an exempt ("EX") license plate shall be exempt from the provisions of this Section.

(c) A temporary parking permit may be issued for a motor vehicle used in conjunction with a building permit for authorized construction within the designated parking area. The temporary parking permit issued under this subsection shall expire six (6) months from the date of issuance.

9.90.040

Paid Timed Parking and Permits.

(1) As described in Section 9.90.030, parking may be regulated by paid time parking or by permit with paid time parking. Vehicles that are parked in a timed parking zone must pay the established rate. Vehicles with valid permits are exempted from the paid parking rate in that parking zone.

(2) A vehicle license plate will be required to enter on the parking app and to pay for paid timed parking or register for a paid time parking by **permit**.

(3) The CNS Director or the Director's designee shall determine the parameters of the application of timed parking, which include:

(a) The timing of the implementation, modification, or termination of a parking zone,

(b) The block faces which shall be included in a parking zone,

(c) The times (e.g., hours, days, holidays, and seasons) for which parking will be charged,

(d) The grace period before the hourly rate is charged,

(e) The manner in which the parking will be timed and the payment will be collected,

(f) Whether parking permits will be offered within the parking zone, and

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Commented [HS1]: What about temporary registration for recently purchased cars? Ask Javin how enforcement does this.

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(g) The parameters of the parking permit (see Section 9.90.040(4)(b)).

(4) Permits in an OSPM area.

(a) A City-issued parking permit allows a permit holder to pay for one (1) year of access to a paid timed parking zone rather than paying the hourly rate. In order to obtain a parking permit, the permit holder must prove ownership of, or residence at, a building with frontage along the parking zone per the requirements in Section 9.80.140.

(b) The Parking Manager may set the cost of permits.

(c) Chapters enacting an OSPM area shall state the number of permits that may be issued to the owner(s) or occupant(s) of each property that has street frontage in the parking zone with a maximum limit of two (2) permits per property.

(d) A property that has frontage on more than one (1) parking zone shall be included in only the parking zone that runs along the front of the property on which the dwelling is addressed.

(e) Each paid timed parking permit shall expire annually after the issuance thereof.

Commented [BJ2]: I found this section heading confusing, but don't feel strongly about this proposed change. Just an idea.

Commented [BJ3]: If this stays how it currently is, let's delete (i) and move it's text up to be part of (b).

Commented [4]: This sounds like we are saying that each owner or occupant can get one or two permits. So if a SFD home that has been converted into a triplex with 12 different occupants, 12 (or 24) permits could be issued. My intention was that no more than one permit could be issued per property, and that either the property owner or an occupant could claim the permit. (This does set up a potential conflict if one of the 12 occupants rushes in to get the permit, but the owner was planning to give it to a different occupant. I think the ordinance doesn't have to specify how to handle this, but I hope the practice would be that a verified owner would be allowed to take over a permit if it was first issued to a verified occupant.)

Commented [HS5R5]: We can clarify the wording on this so that there is they're available to either the owner or the occupant of a property and not to individual units within a property but to the property as a whole. Does that work?

Commented [CK6]: Does it expire in a year or 6 months like in 9.90.30 6)

Commented [BJ7]: This presumes a Council hearing, but nothing in the section currently requires one. I think we need a new (4) stating that adoption is done in a public meeting after (2) or (3) has been completed.

9.90.050

Designation Process.

(1) The process for designating a new OSPM area may be initiated by the CNS Director or the Director's designee or by a resident within the boundaries of the proposed OSPM area.

(2) CNS Director or the Director's designee initiation

(a) The CNS Director or the Director's designee shall notify the Council of their intent to designate a new OSPM area. The CNS Director or the Director's designee shall bring a report and recommendation to the Council within the next 90 days. The report shall include the following:

- (i) A map of the proposed OSPM area,
- (ii) The reason for the proposal,
- (iii) Proposed block faces for parking zones, and
- (iv) Any input submitted by residents for and against the proposal.

(b) The CNS Director or the Director's designee shall notify all residents within the proposed OSPM area by mail thirty (30) days prior to any scheduled Council public meeting to consider adoption of the OSPM area.

(3) Resident initiation

(a) Any resident or property owner within the proposed OSPM area may submit an application to the CNS Director or the Director's designee. The CNS Director or the Director's designee shall notify the Council within thirty (30) days of receiving the application and present a report and recommendation no more than ninety (90) days after notification has been sent (120 days total).

(b) Resident applications shall include the following:

- (i) A map of the proposed OSPM area,
- (ii) The reason for the proposal,
- (iii) Proposed block faces for parking zones,
- (iv) A list of names, addresses, and signatures of people who support the application, and

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(v) Any other details the applicant thinks relevant to the proposal.

(c) The CNS Director or the Director's designee shall notify all residents within the proposed OSPM area by mail thirty (30) days prior to any scheduled Council public meeting to consider adoption of the OPSM area .

(4) Following the procedure in subsection (2) or (3), the Council may hold a public meeting to consider adoption of an ordinance establishing an OSPM area.

(5) Following the adoption of an ordinance establishing an OSPM area, the CNS Director or the Director's designee shall mail a summary of the ordinance and its effective date to:

(a) Each address of record within the proposed permit parking area through a mailing sent to "postal patron" and

(b) Each property owner of record within the area as shown in Utah County land records.

9.90.060

Handicapped Parking.

Nothing in this Chapter shall limit the scope of parking privileges granted to handicapped persons established by Provo City Code or other applicable law.

9.90.070

Other Parking Regulations.

The provisions of this Chapter shall not relieve any person from the duty to observe other and more restrictive provisions of the Provo City Code which prohibit or limit the stopping, standing, or parking of vehicles at specific times or places.

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Chapter 9.91 **JOAQUIN ON-STREET PARKING MANAGEMENT AREA**

Sections:

- 9.91.010 Purpose.**
- 9.91.020 On-Street Parking Management Area Authorized – Boundaries.**
- 9.91.030 Review and Sunset.**

9.91.010

Purpose.

This Chapter is enacted to establish an On-Street Parking Management (OSPM) area (see Chapter 9.90) in the Joaquin Neighborhood.

9.91.030

On-Street Parking Management Area Authorized – Boundaries.

(1) An On-Street Parking Management Area (OSPM) is hereby established within the Joaquin Neighborhood as described by the following boundaries and applying to both sides of a street unless otherwise provided throughout the Joaquin Neighborhood:

Commencing at the intersection of 200 East and Center Street,
thence north along 200 East to 100 North (east side of the street),
thence west to 100 East (north side of the street),
thence north to 200 North (east side of the street),
thence west to 50 East (north side of the street),
thence north to 400 North,
thence northwesterly to 450 North and thence northeasterly to 500 North including properties fronting 400 North between 41 East and 100 East and properties fronting 100 East between 400 North to 500 North and properties fronting 500 North between 74 East and 100 East,
thence west to University Ave (north side of the street only),
thence north to 960 North (east side of the street only),
thence east to 50 East,
thence south to 950 North,
thence east to 150 East (west side of the street),
thence south to 800 North,
thence east to 580 East (south side of the street),
thence north to 874 North (east side of the street),
thence eastwardly to 700 East with all properties fronting 800 North between 580 East and 700 East and all properties fronting 700 East between 800 North and 839 North,
thence north to 900 North,
thence east to 900 East (south side of the street),

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then south to Center Street (east side of the street),

thence west to 200 East (north side of the street) to the point of beginning.

(2) The foregoing described area shall be known as the Joaquin ~~Managed~~-On-Street Parking Management Area, and the boundaries thereof as described in Subsection (1) of this Section, shall be shown on the Official Permit Parking Area Map.

(3) The Joaquin On-Street Parking Management Area as described in 9.91.030(1) is illustrated below.

9.91.030

Program Parameters.

One (1) permit per property shall be made available to the owner(s) or occupant(s) of properties that have street frontage in parking zones within the Joaquin OSPM area.

9.91.040

Review.

VERSION 1 – DELAYED ADOPTION OF 9.91

The CNS Director or the Director's designee shall prepare a review of the program to be shared with the Municipal Council within two (2) years after the enactment of this chapter.

VERSION 2 – EARLY ADOPTION OF 9.91

This chapter shall take effect in July 2022. The CNS Director or the Director's designee shall prepare a review of the program to be shared with the Municipal Council before the end of July 2024.

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PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 09-21-2021

SUBJECT: An ordinance on towing fees (21-105)

RECOMMENDATION: Discussion and potential action.

BACKGROUND: In 2013, the City adopted City Municipal Code 9.31.110 which included a limitation on the maximum fees and charges a towing company operator may charge for: (i) booting or otherwise immobilizing a vehicle, and (ii) towing a vehicle. The fee limits in question only apply to patrol type tows at residential properties. Provo does not impose a fee cap for any consent tows or for non-consent tows (1) at non-residential properties or (2) at residential properties where the property manager or designee calls for the tow. In an attempt to prevent predatory towing, in 2013, Mayor Curtis proposed, and the Council approved, rules requiring patrol tows of residential properties to be done under a contract that meets certain requirements. One of those requirements is a cap on the fees.

A local towing operator is requesting a change in the rates to help address costs increases (vehicle, employment, insurance, equipment, etc.). The Council directed staff to bring for its consideration an ordinance setting the non-consent, non-police towing and booting at 80% of the state limit.

FISCAL IMPACT: None

PRESENTER'S NAME: Cliff Strachan, Executive Director of Council

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 21-105

DRAFT

RESOLUTION 2021-

AN ORDINANCE AMENDING FEES FOR THE NON-CONSENT BOOT OR
TOW OF A MOTOR VEHICLE (21-105)

WHEREAS, in 2013, Provo City amended its City Code to allow, under specified conditions, the non-consent booting or towing of a motor vehicle from private property without the property owner's involvement or police involvement; and

WHEREAS, to deter towing operators from pursuing non-consent boot or tow activities, the City established a lower limit on fees that might be charged for said non-consent booting or towing than per the maximum permitted under Rule 909-19-13, Utah Administrative Code; and

WHEREAS, a towing operator, noting that operating and other costs have increased in the several years since Provo City set the fees, requested the Municipal Council to adjust the fees; and

WHEREAS, the Provo City Municipal Council, having considered the request and the probability that such requests would be made repeatedly over years, determined to set the fees as a percentage of the maximum permitted under Rule 909-19-13, Utah Administrative Code; and

WHEREAS, on October 12 and 26, 2021 the Provo City Municipal Council held duly noticed public meetings to ascertain the facts regarding this matter, which facts are found in the meeting records; and,

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds: (i) the Provo City Code should be amended as described herein; and (ii) such amendments are in the best interests of the residents of Provo City and reasonably further the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 9.31.110(7)(c)(vi) is amended thus:

A limitation of the towing or parking enforcement operator's total maximum fees and charges for booting or otherwise immobilizing a vehicle ~~to sixty dollars (\$60) and the total maximum fees and charges~~ and for towing a vehicle ~~to one hundred seventy five dollars (\$175),~~ including the first day of storage (subsequent days of storage may be charged in accordance with the rules and rates set forth in Rule 909-19-13, Utah Administrative Code) ~~shall be set at eighty percent (80%) of the maximum fees set through Rule 909-19-11, Utah Administrative Code.~~

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PART II:

This ordinance shall take effect on January 15, 2022.

END OF RESOLUTION.